

THE PARALEGAL'S GUIDE TO
DRAFTING NONPROFIT
DOCUMENTS

CORPORATE BYLAWS

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CHOOSING A MEMBERSHIP OR NON-MEMBERSHIP STRUCTURE

Bylaws are the tool for governance of a not for profit. The document contains provisions to conduct of the affairs of the corporation and provide guidance to the directors and officers on how to act. Additionally, third parties can look top the Bylaws for verification that action is allowed and properly taken.

There is no Federal mandated language for Bylaws. State laws govern the provisions and it is important before drafting to review the specific's state law which will be governing the entity. Regardless of whether a state requires Bylaws or not, Bylaws are important to have since they provide the roadmap for a not for profit organization's operation.

Whether to have members or not to have members is a decision to be made initially when formed. Later as the entity evolves, the structure can be changed to either add or delete members. Most states do not require not for profits to have members. When forming, one should review local law as to whether the state requires it. As the Hurwit & Associates Nonprofit Resource Library Nonprofit Governance, Boards & Bylaws: Bylaws & Members describes:

The term "member" is used in two ways. First, it describes what may be referred to as corporate members: those individuals who have some legal rights in the organization, usually the right to elect or approve a slate to the board of directors, and approve of major corporate changes. The other type of member is simply one who in return for a membership fee or other donation receives a benefit of some kind, usually a newsletter, use of the organization's facility, or preferred seating or admission. This type of member has no legal rights or legal standing in the organization.

The decision whether or not to be a membership organization focuses on whether the governance will be efficiently managed by its Board or whether the governance will be open to members. Essentially, the issue is whether the corporation will have members, or whether all powers will be vested in a board of directors. This decision can be based on the historical nature of the not for profit, strategic reasons or the type of not for profit. For instance, a 501(c)(5) "labor organization is a membership organization of employees or representatives of employees." See IRS Exempt Organization Determinations Manual § 7.25.52.1. In general public charities are often not membership organizations and decision making is made by their Boards.

If the entity chooses the membership structure, then the members may have decision making authority such as electing directors, dissolution of the nonprofit, sale of major assets and amending the organization's bylaws and articles of incorporation. Even in cases where there is a membership structure, operational decisions are still taken by the directors and officers. Yet they are accountable to the members when taking these actions.

DEFINING BOARD MEETING FUNCTIONS AND STRUCTURE

Bylaws typically contain specific provisions detailing:

Purpose of the organization

Number of, election, succession and terms (limits, staggered, etc.) of Directors

Management, duties and action of the Board and must they be physically present to act

Board meetings – notice, conduct, procedure and location

Types, election, succession and terms (limits, staggered, etc.) of Officers

Duties, powers and responsibilities of each officer

Committees including whether the chairperson (or president) has the power to appoint committees, and to provide for rules, powers, and procedures of such committees

Liability and indemnification of Officers and Directors

Location of office

Removal and disqualification of Directors and Officers

Compensation of Directors and Officers

Quorum for the transaction of business

Minutes, book keeping, reviewing corporate records and dispersing funds

Amendment procedure

Dissolution procedure

Bylaws of nonprofit corporations with voting members will contain additional provisions detailing:

Classes and qualifications of membership

Rights of membership

Removal of members

Actions of the members

Membership meetings – notice and conduct

Quorum for the transaction of business

The rationale for the majority of these provisions is self evident. Without these items detailed in the Bylaws, the entity would not be able to effectively function. Central to its governance is the quorum requirement which ensures “that actions are taken by a representative number of duly authorized participants rather than by an elite few.”

Grobman, Gary, The Nonprofit Handbook, Sixth Edition, at Bylaws--Chapter 3. By setting a manageable requirement instead of requiring for example, 100% attendance of all members or all directors, the entity can avoid scenarios where action cannot take place because of lack of a quorum. Having flexible requirements that participants can be present via phone or video, also ensures maximum outcomes that a quorum will be readily achieved.

OUTLINING MEMBERSHIP PROVISIONS

Types of membership classes – active, inactive and honorary. The bylaws should indicate how one becomes a member of each class, how many members can be in each class and what rights each class has.

Eligibility of membership – process for applying for membership and any restrictions on who can be a member.

Dues structure – how much is charged and how is that amount set, when are dues paid, procedure for paying dues, what happens if a member does not pay dues and can such delinquent member attend meetings and events while in arrears, is there an initiation fee. Capital contribution can be required of its members.

Membership requirements – criteria for staying a member such as attendance requirements, educational criteria and serving on committees. How often will the members meet and for what purposes. Membership certificates can be issued.

Disciplinary procedures – sometimes separate documents govern this section. Unless otherwise provide, the members of a corporation shall not be personally liable for the debts, liabilities or obligations of the corporation. A member shall be liable to the corporation only to the extent of any unpaid portion of the initiation fees, membership dues or assessments which the corporation may have lawfully imposed upon such member or for any other indebtedness owed by such member to the corporation. Procedures for fining its members.

Resignation – how to withdrawal and be reinstated as a member. In general, unless provided otherwise, membership is terminated by death, resignation, expulsion, expiration of a term of membership or dissolution and liquidation of the entity.

Duties of members – right to elect directors, officers or conduct any other business. How many members make a quorum in order to act. Can members act by proxy. Right to examine books and records of account and minutes of the proceedings of its members, board and executive committee, if any, and list or record containing the names and addresses of all members, the class or classes of membership or capital certificates and the number of capital certificates held by each and the dates when they respectively became the holders of record thereof.

N.Y. NPC. LAW Article 6 governs membership issues in New York, as do some provisions in Article 5. Connecticut Nonstock Corporations Chapter 602, Sec. 33-1055, et. seq., governs membership issues in Connecticut.

IDENTIFYING HOW GRANT MONEY WILL BE DISTRIBUTED

Grants are non-repayable funds awarded and disbursed by a government entity or other not for profits based on a proposal or applications submitted by the not for profit organization. In general, these grants are project specific and may require compliance to show that the funds were expended on that specific project. As part of the grant proposal, the entity will need to explain how the funds will be used and what safeguards are in place to ensure that these funds will be used for that purpose.

In order to ensure compliance with the grant requirements, the entity should use a fund accounting method which is a self-balancing set of asset, liability, net asset, revenue and expense accounts. This accounting system ensures that grant dollars are only used for its stated purpose and are not comingled with nonrestricted funds or other funds earmarked for other projects. By maintaining these restricted funds separately, the entity can show the grant provided that the dollars were in fact spent for their intended purpose and thereby released from the restriction.

WALKTHROUGH OF EXAMPLES

Sample Connecticut Form:

BY-LAWS

of

_____, INC.

ARTICLE I - PURPOSES

The purposes for which the Corporation has been organized are as follows:

No part of the net earnings of the Corporation shall inure to the benefit of any director, trustee or officer of the Corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes), and no director, trustee or officer of the Corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the Corporation shall not participate in or intervene in, including the publication or distribution of statements, any political campaign on behalf of any candidate for public office.

The Corporation shall distribute its income for each taxable year at such time and in such manner so as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent federal tax laws.

The Corporation shall not engage in any act of self-dealing as defined in Section 4941 of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent federal tax laws.

The Corporation shall not retain any excess business holdings as defined in Section 4943 of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent federal tax laws.

The Corporation shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent federal tax laws.

The Corporation shall not make any taxable expenditures as defined in Section 4945 of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent federal tax laws.

Notwithstanding any other provisions of this Certificate of Incorporation, the Corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt under Section 501(c)(3) of the Internal Revenue Code of 1986 and Treasury Regulations promulgated thereunder as they now exist or as they may hereafter be amended, or by an organization, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Upon the dissolution or other termination of the Corporation or the winding up of its affairs, the assets of the Corporation shall be distributed exclusively to United States governments and governmental agencies operating for public benefit and/or to charitable organizations which then qualify under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986 and Treasury Regulations then promulgated thereunder as they now exist or as they may hereafter be amended.

To do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof, but not for the pecuniary profit or financial gain of its directors, trustees or officers.

ARTICLE II - MEMBERSHIP

Section 1. MEMBERSHIP.

The Corporation shall have no members.

ARTICLE III - BOARD OF DIRECTORS

Section 1. POWERS AND NUMBER.

The Board of Directors shall have general power to control and manage the affairs and property of the Corporation in accordance with the purposes set forth in the Certificate of Incorporation and these By-Laws. The number of directors constituting the entire Board shall not be less than three (3), and subject to such minimum may be increased or decreased from time to time by amendment of the By-Laws in a manner not prohibited by law. Until so changed the number of directors shall be six (6).

Section 2. ELECTION AND TERM OF OFFICE.

The initial directors shall be persons named in the Certificate of Incorporation. The directors shall be elected for a term of one (1) year at the annual meeting of the Board of Directors by a majority of the directors then in office, and each shall continue in office until his or her successor shall have been elected and qualified, or until his or her death, resignation or removal.

Section 3. REMOVAL.

Any director may be removed, with or without cause, by a vote of a majority of the directors then in office. A director may only be removed at a meeting called for the purpose of removing such director, and the notice for such meeting must state that the purpose, or one of the purposes, of the meeting is the removal of the director.

Section 4. RESIGNATION.

Any director may resign from office at any time by delivering a resignation in writing to the Board of Directors or the Secretary of the Corporation. Unless otherwise specified by the notice, the resignation shall take effect upon receipt thereof by the Board of Directors or the Secretary, and acceptance of the resignation shall not be necessary to make it effective.

Section 5. VACANCIES AND NEWLY CREATED DIRECTORSHIPS.

Any newly created directorships and any vacancies on the Board of Directors arising at any time and from any cause may be filled at any meeting of the Board of Directors by a majority of the directors then in office, and the directors so elected shall serve until the next annual meeting and until their successors are elected and qualified. A vacancy to occur at a later specific date, by reason of a resignation effective at such later date, may be filled prior to the vacancy, but the new director may not take office until the vacancy occurs.

Section 6. PLACE AND TIME OF MEETINGS.

The annual meeting of the Board of Directors shall be held on the first Monday of August of each year at the location chosen by a vote of the majority of the Board of Directors. The time for holding regular meetings shall be fixed by the Board of Directors. A special meeting may be called at any time by the President or other officer or by written demand of any one (1) director at any time and place specified by him or her.

Section 7. NOTICE OF MEETINGS AND ADJOURNMENTS.

Notice of the time and place of each regular, special or annual meeting of the Board of Directors shall be sent to each director at his or her residence or usual place of business (or at such other address as he or she may have designated in a written request filed with the Secretary) by registered or certified mail, overnight delivery, e-mail or facsimile, at least seven (7) days before the day on which the meeting is to be held; provided, however, that notice of special meetings to discuss matters requiring prompt action may be given by personal delivery, registered or certified mail, overnight delivery, telephone, e-mail or facsimile, no less than twenty-four (24) hours before the time at which such meeting is to be held. Notice of a regular, special or annual meeting need not include a description of the purpose(s) of the meeting, except that a By-Law may only be brought up for adoption, amendment or repeal if such purpose is so stated in the written notice, and as otherwise provided in these By-Laws.

Notice of a meeting need not be given to any director who submits a signed waiver of notice before or after a meeting, such notice to be filed with the minutes of the Corporation. A director's attendance at a meeting waives any required notice to him, unless the director objects to the meeting at the beginning thereof, or promptly upon his arrival, and does not vote or assent to any action taken at the meeting. A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of the adjournment shall be given to all directors who were not present at the time of the adjournment and, unless such time and place are announced at the meeting, to the other directors.

Section 8. QUORUM.

At all meetings of the Board of Directors, a majority of the directors then in office shall constitute a quorum for the transaction of business.

Section 9. ACTION BY THE BOARD.

At any meeting of the Board of Directors at which a quorum is present, a vote of a majority of the directors present at the time of the vote shall be the act of the Board. In the case of a tie vote, the officer presiding over the meeting shall cast the deciding vote. Participation of one (1) or more directors by any means of communication by which all persons participating in the meeting may hear each other at the same time shall constitute presence in person at a meeting.

A director who is present at a meeting of the Board of Directors when an action is taken is deemed to have assented to the action unless: (1) he objects to the meeting at the beginning thereof, or promptly upon his arrival; (2) his dissent or abstention from the action is entered into the minutes of the meeting; or (3) he delivers written notice of his dissent or abstention to the presiding officer of the meeting before its adjournment, or to the Corporation immediately after the adjournment of the meeting.

Any action required or permitted to be taken by the Board of Directors or by any committee thereof may be taken without a meeting if all members of the Board or the committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents shall be filed with the minutes of the Board or committee.

Section 10. COMMITTEES OF THE BOARD.

The Board of Directors, by resolution adopted by a majority of the entire Board, may establish one or more committees. Each committee so appointed shall consist of one (1) or more directors and, to the extent provided in the resolution establishing it, shall have all the authority of the Board except as to the following matters:

- a. the filling of vacancies of the Board or any committee;
- b. the amendment or repeal of the By-Laws or the adoption of new By-Laws;
- c. the amendment or repeal of any resolution of the Board which by its terms shall not be so amendable or repealable;
- d. the approval of a plan of merger;
- e. the approval of the sale or disposition of all, or substantially all, of the property of the Corporation, other than in the regular course of business;
- f. the fixing of compensation of the directors for serving on the Board or any committee.

Each Committee of the Board of Directors shall serve at the pleasure of the Board.

ARTICLE IV - OFFICERS, EMPLOYEES AND AGENTS

Section 1. OFFICERS.

The officers of the Corporation shall be a President, a Secretary, a Treasurer, and such other officers, including one (1) or more Vice-Presidents, as the Board of Directors may from time to time elect. The same individual may simultaneously hold multiple offices, except for the offices of President and Secretary.

Section 2. ELECTION, TERM OF OFFICE AND REMOVAL.

The officers of the Corporation shall be elected for a one (1) year term at the annual meeting of the Board of Directors immediately following the election of directors, and each shall continue in office until his or her successor shall have been elected and qualified, or until his or her death, resignation or removal. Any officer of the Corporation may be removed, with or without cause, by a vote of a majority of the entire Board.

Section 3. OTHER AGENTS AND EMPLOYEES.

The Board of Directors may from time to time appoint such agents and employees as it shall deem necessary, each of whom shall hold office during the pleasure of the Board of Directors, and shall have such authority, perform such duties and receive such reasonable compensation, if any, as the Board of Directors may from time to time determine.

Section 4. VACANCIES.

Any vacancy in any office may be filled by the Board of Directors. Any officer so elected shall hold office until the next annual meeting of the Board of Directors and the election and qualification of his or her successor.

Section 5. PRESIDENT: POWERS AND DUTIES.

The President shall preside at all meetings of the Board of Directors and shall generally supervise the affairs of the Corporation. He or she shall keep the Board of Directors fully informed. He or she shall have the power to sign alone, unless the Board of Directors shall specifically require an additional signature, in the name of the Corporation all contracts or other instruments authorized either generally or specifically by the Board of Directors. The President shall also have such other powers and perform such other duties as the Board of Directors may from time to time prescribe.

Section 6. VICE-PRESIDENT: POWERS AND DUTIES.

In the absence of the President or in the event of his death, inability or refusal to act, the Vice President (or in the event there be more than one Vice President, the Vice President in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall have all the powers of and be subject to all the restrictions upon the President. The Corporation may elect any number of Vice Presidents. Any Vice President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 7. SECRETARY: POWERS AND DUTIES.

The Secretary shall:

- a. keep the minutes of all meetings of the Board in books to be kept for that purpose;
- b. serve or cause to be served all notices of the Corporation;
- c. have custody of the seal of the Corporation and shall affix and attest the same to documents when duly authorized by the Board; and
- d. perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the Board.

Section 8. TREASURER: POWERS AND DUTIES.

The Treasurer shall keep, or cause to be kept, complete and accurate accounts of receipts and disbursements of the Corporation, and shall deposit all moneys and other valuable effects of the corporation in the name and to the credit of the Corporation in such banks or depositories as the Treasurer and/or President may designate. Whenever required by the Board of Directors, he or she shall render a statement of the accounts. He or she shall, at all reasonable times, exhibit the books and accounts to any officer or director of the Corporation, and shall perform all duties incident to the office of Treasurer and such other duties as shall from time to time be assigned to him or her by the Board of Directors.

Section 9. SURETIES AND BONDS.

Any agent of the Corporation shall, if required by the Board of Directors, give such security for the faithful performance of his or her duties as the Board of Directors may require.

ARTICLE V - CONTRACTS, CHECKS, BANK ACCOUNTS AND INVESTMENTS

Section 1. CHECKS, NOTES AND CONTRACTS.

The Board of Directors is authorized to select the banks or depositories it deems proper for the funds of the Corporation. The President and the Treasurer shall be authorized from time to time on the Corporation's behalf to sign checks, drafts or other orders for the payment of money, acceptances, notes or other evidences of indebtedness. The Board of Directors shall determine who shall enter into contracts or execute and deliver other documents and instruments, other than as permitted hereunder.

Section 2. INVESTMENTS.

The funds of the Corporation may be retained in whole or in part in cash or be invested and reinvested from time to time in such property, real, personal or otherwise, including stocks, bonds or other securities, as the Board of Directors may deem desirable.

ARTICLE VI - OFFICE AND BOOKS

Section 1. OFFICE.

The initial registered office of the Corporation shall be in the County of Cheshire, State of Connecticut. The Corporation may have additional offices at such other places

within or without of the State of Connecticut as the Board of Directors may from time to time determine.

Section 2. BOOKS.

There shall be kept at the office of the Corporation correct books of account of the activities and transactions of the corporation. The Secretary shall keep the minute book, which shall contain a copy of the Certificate of Incorporation, a copy of these By-Laws, and all minutes of meetings of the Board of Directors. The Secretary may designate an attorney for the Corporation to keep the minute book in his place.

ARTICLE VII - FISCAL YEAR

The fiscal year of the Corporation shall be determined by the calendar year.

ARTICLE VIII - AMENDMENTS

These By-Laws may be amended at any meeting of the Board of Directors by a vote of the majority of the entire Board of Directors, except that any amendment which increases the quorum requirement or the proportion of votes necessary for the transaction of business or of any specified item of business must be authorized by a vote of two-thirds (2/3) of the entire Board of Directors.

ARTICLE IX - ADOPTION OF BY-LAWS

Adopted by the Board of Directors by resolution and unanimous vote on April 8, 2015 and may be executed in any number of counterparts, any of which may be executed and transmitted by facsimile or other electronic method, and each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

DIRECTORS:

Sample New York Form:

BY-LAWS

of

_____, **Inc.**

A New York Not-for-Profit Corporation

Amended and Restated as of December 16, 2014

1.

MEMBERS

- (a) Non-Membership Corporation. The Corporation shall have no members.
- (b) Honorary Titles. The Board of Directors may at its discretion create classes of “members,” such as contributing members or honorary members, and may charge any or no form of fees or dues in connection therewith, but persons so designated shall not have any rights afforded to members pursuant to the New York Not-for-Profit Corporation Law (the “NPCL”).

2.

DIRECTORS

- (a) Powers. The Board of Directors shall have all powers and duties for the conduct of the activities of the Corporation, including the power to hire a Chief Executive Officer, except as otherwise provided by these By-laws or a resolution duly adopted by the Board of Directors.
- (b) Qualifications. Each Director shall be an individual, at least eighteen years of age, who (i) is or shall commit to become a regular contributor to the _____, and (ii) shall make a gift to the annual Board Fund consistent with the guidelines set by the Board of Directors.
- (c) Number. The Board of Directors shall consist of not fewer than five nor more than fifty Directors.
- (d) Election. Election of Directors shall occur at the annual meeting of the Directors, except for the filling of vacancies pursuant to Section 2.11 below.

- (e) Term. Each Director shall serve for a term of three years, and until his or her successor has been elected and qualified. No action to decrease the maximum number of Directors specified in Section 2.3 above shall shorten the term of any incumbent Director. As nearly as possible, an equal number of terms shall expire each year.
- (f) Quorum. One-third of all the Directors then serving, present in person, shall constitute a quorum of the Board of Directors.
- (g) Vote. Each Director shall be entitled to one vote on each matter before the Board of Directors.
- (h) Action. The affirmative vote of a majority of the Directors present in person at the time of the vote, if a quorum is present at such time, shall be the act of the Board of Directors, except:
 - (i) Any purchase of real property, or any sale, mortgage or lease of the real property of the Corporation, shall require (i) the affirmative votes of the majority of the Directors then serving, or of a committee so authorized by the Board, in cases where the transaction does not dispose of “all or substantially all” of the Corporation’s assets; (ii) the affirmative votes of the majority of the Directors then serving, in cases where the transaction does dispose of “all or substantially all” of the Corporation’s assets, but there are twenty-one (21) or more Directors; and (iii) the affirmative votes of two-thirds of the Directors then serving, in cases where the transaction does dispose of “all or substantially all” of the Corporation’s assets, and there are fewer than twenty-one (21) Directors then serving;
 - (ii) If the Corporation authorizes a committee to act pursuant to paragraph 2.8.1, the committee shall promptly notify Board of any action, with such notice to be provided prior to the next regularly scheduled board meeting;
 - (iii) Authorization of any merger, consolidation, or dissolution of the Corporation, shall require the affirmative votes of a majority of the Directors then serving; and
 - (iv) As otherwise provided in these By-laws or the NPCL.
- (i) Resignation. Any Director may resign at any time, such resignation to be made in writing and to take effect from the time of its receipt by the Corporation, unless some later time may be fixed in the resignation, and then from that date. The resignation of any Director shall be effective regardless of any acceptance or rejection by the Corporation.

- (j) Removal. Any Director may be removed (i) with or without the assignment of any cause, by the affirmative vote of a majority of the Directors then serving, or (ii) with the assignment of cause, by the affirmative vote of a majority of the Directors present in person at the time of the vote, at any duly convened meeting of the Board of Directors, provided that notice of the intention to consider removal of such Director has been included in the notice of the meeting.
- (k) Vacancies. If any vacancy exists among the positions available for Directors, whether by the death, resignation or removal of any Director, or by an increase in the number of positions, or because any position has remained unfilled, then the position may be filled by the affirmative vote of a majority of the Directors then serving, even if their numbers have fallen below the minimum number stated in Section 2.3 above. A Director elected to fill a vacancy shall serve until the next annual meeting of the Board of Directors, and until her or his successor is elected and qualified.
- (l) Participation by Teleconference. Any one or more Directors may participate in a meeting of the Board of Directors, or any committee thereof, by means of a conference telephone, electronic video screen or similar communications as long as all persons participating in the meeting can hear each other at the same time and each Director can participate in all matters before the Board, including, without limitation, the ability to propose, object to, and vote upon a specific action to be taken by the Board or committee. Participation by such means shall constitute presence in person at a meeting.
- (m) Action by Unanimous Written Consent. Any action required or permitted to be taken by the Board of Directors or any committee thereof may be taken without a meeting if all members of the Board or the committee consent in writing to the adoption of a resolution authorizing the action. Any consent submitted via facsimile or electronic mail shall be deemed to constitute consent in writing.
- (n) Compensation. No Director shall be compensated for service to the Corporation in that capacity, or for service as an officer of the Board of Directors.

3.

OFFICERS

- (a) Positions, Qualification. The officers of the Board of Directors shall include a Chair or President, or both, one or more Vice Presidents, a Secretary a Treasurer, and such other officers as the Board of Directors may choose to designate from time to time. The President, all Vice Presidents, the Secretary and the Treasurer

shall be elected from among the Directors. No employee of the corporation may serve as Chair of the Board or hold any other title with similar responsibilities.

- (b) Election, Term. Each officer shall be elected by the Board of Directors, and shall serve for a term of three years and until her or his successor is elected and qualified. Individuals shall not be reelected to consecutive terms in any single office, but may be elected to one office upon the completion of a term in another office.
- (c) Duties.
 - (i) The President shall be the chief volunteer officer of the Board of Directors, shall preside at all meetings of the Board of Directors and the Executive Committee, and shall carry out such other duties as are set forth in these By-laws.
 - (ii) A Vice-President shall have such powers and duties as the Board of Directors may prescribe or as the President may delegate. For so long as the President is incapacitated or unavailable, or the office of President is vacant, then the Vice President with the longest tenure as a Director shall assume the powers and duties of the President.
 - (iii) The Secretary shall assure that minutes are prepared for all meetings of the Board of Directors, shall assure that appropriate notice is given for all meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or the President.
 - (iv) The Treasurer shall assure that accurate accounts of the assets, receipts and disbursements of the Corporation are maintained, shall produce financial reports as described in these By-laws and as requested by the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or the President.
- (d) Resignation. Any officer may resign at any time, such resignation to be made in writing and to take effect from the time of its receipt by the Corporation, unless some later time may be fixed in the resignation, and then from that date. The resignation of any officer shall be effective regardless of any acceptance or rejection by the Corporation.
- (e) Removal. Any officer may be removed (i) with or without the assignment of any cause, by the affirmative vote of a majority of the Directors then serving, or (ii) with the assignment of cause, by the affirmative vote of a majority of the Directors present in person at the time of the vote, at any duly convened meeting of the Board of Directors, but such removal shall be without prejudice to the individual's contract rights, if any, in regard to the Corporation.

- (f) Vacancies, Interim Appointments. If any vacancy exists among the offices of the Corporation, whether by the death, resignation or removal of any officer, or if the Board of Directors deems it necessary to appoint a new Vice President or create a new officer position at any time between annual meetings of the Board of Directors, then the position may be filled by the affirmative vote of a majority of the Directors present at a meeting at which a quorum is present. An officer so appointed shall serve until the next annual meeting of the Board of Directors, and until her or his successor is elected and qualified.

4.

MEETINGS

- (a) Annual Meeting. The annual meeting of the Board of Directors shall be held during the month of June, or otherwise at a time determined by the Board.
- (b) Regular Meetings. Regular meetings of the Board of Directors shall be held at times determined by the Board.
- (c) Special Meetings. A special meeting of the Board of Directors may be called at any time by the President or Secretary of the Corporation, or by any Director upon written or electronic notice of not less than one-fifth of the Directors then serving.
- (d) Place. Each annual, regular and special meeting of the Board of Directors shall be held within Westchester County, New York, at a place reasonably accessible to all Directors, as determined by the president or, in his or her absence, by the Executive Director of the Corporation.
- (e) Notice. Notice of the annual meeting of the Board of Directors shall be given at least fifteen days prior to the meeting. Notice of each regular meeting of the Board of Directors shall be given at least ten days prior to that meeting. Notice of a special meeting of the Board of Directors shall be given at least forty-eight hours prior to that meeting. Notice of each meeting shall contain the time and place of the meeting. In the case of a special meeting, notice shall also include the purpose of such meeting. Notice shall be deemed delivered pursuant to section 11.3 below.
- (f) Waiver of Notice. Notice of a meeting need not be given to any Director who submits a waiver of notice either before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to her or him. Such waiver of notice may be written or electronic. If written, the waiver must be executed by the director signing such waiver or

causing his or her signature to be affixed to such waiver by any reasonable means including but not limited to facsimile signature. If electronic, the transmission of the consent must be sent by electronic mail and set forth, or be submitted with, information from which it can reasonably be determined that the transmission was authorized by the Director.

- (g) Adjournment. The Directors present at any meeting may vote to adjourn a meeting to another time and place, even if they do not constitute a quorum, but no such meeting shall be reconvened without reasonable notice to those who were not present at the time of the adjournment.

5.

COMMITTEES

- (a) Committees. The Board of Directors shall maintain committees including an Executive Committee, a Nominating Committee, an Audit Committee, a Budget and Finance Committee and a Program Council, each as further described below.
- (b) Composition, Conduct. Each committee shall consist of three or more Directors. The Executive Committee shall be Chaired by the President, and each other committee shall be chaired by a Director selected by the President. A quorum for the conduct of business of any committee shall consist of a majority of the members of that committee, and each committee shall keep regular minutes of its proceedings and report the same to the Board of Directors.
- (c) Advisory Appointments. The President may appoint individuals who are not Directors to serve as advisors to any committee. Advisory appointees shall not have the rights or responsibilities of Directors or officers of the Corporation, shall not vote on any matter before any committee, shall not be counted toward establishing a quorum of any committee, and shall not assume any authority to represent or carry out business on behalf of the Corporation by virtue of such appointment.
- (d) Authority. Each committee shall have such authority as specified in these By-laws or as delegated by resolution of the Board of Directors, except that no committee shall have authority as to the following matters:
 - (i) the removal of any Director or officer;
 - (ii) the filling of vacancies in the Board of Directors or any committee;
 - (iii) the fixing of compensation of any individual for serving as a Director or on any committee;

- (iv) the amendment, repeal or replacement of these By-laws or the Certificate of Incorporation; or
 - (v) the amendment or repeal of any resolution of the Board of Directors which by its terms shall not be so amendable or repealable.
- (e) Executive Committee. The Executive Committee shall consist of each Director who is an officer, each committee chair, the immediate past President (so long as that individual is a Director), and up to three additional Directors selected by the President, and shall carry on the business of the Corporation as necessary between meetings of the Board of Directors. The Executive Committee shall have all the authority of the Board, except as provided in Section 5.4 above, but shall submit each of its actions for ratification at the next regular meeting of the Board of Directors. Actions taken by the Executive Committee prior to ratification shall be final and binding upon the Corporation as to third parties.
- (f) Nominating Committee. The Board of Directors shall appoint a Nominating Committee. The Nominating Committee shall prepare a slate of candidates for election to the Board of Directors and to the offices of the Corporation at the following annual meeting, and shall present that slate to the board of Directors at least thirty days prior to such meeting.
- (g) Audit Committee. The Board of Directors shall appoint an Audit Committee. The members of the Audit Committee shall consist solely of independent Directors who are not compensated by the Corporation in any capacity, and who have no material relationships with any entity transacting significant business with the Corporation. The Audit Committee shall annually retain, oversee and review the performance and independence of the Corporation's independent auditor; review with the independent auditor the scope and planning of the audit prior to its commencement; review and discuss with the independent auditor any material risks and weaknesses in internal controls identified by the auditor, any restrictions on the scope of the auditors' activities or access to requested information, any significant disagreements between the auditor and management and the adequacy of the Corporation's accounting and financial reporting practices; report and recommend approval of the annual audit report to the full Board; approve any non-audit services performed by the auditing firm; and provide guidance to the Board of Directors regarding adoption and implementation of internal financial controls recommended by the auditor.
- (h) Budget and Finance Committee. The Board of Directors shall appoint a Budget and Finance Committee. The Budget and Finance Committee shall develop an annual budget for the Corporation, and present that budget for consideration and approval by the Board of Directors. In addition, the Budget and Finance Committee shall ensure that accurate and appropriate financial reports are prepared and distributed for each meeting of the Board of Directors, and take any

other steps necessary to assist the Board of Directors in monitoring and managing the financial affairs of the Corporation

- (i) Program Council. The Board of Directors shall appoint a Program Council. The Program Council shall provide general oversight of the programmatic activities of the Corporation. The Program Council shall work with members of the Corporation's program staff to monitor and guide programs, and shall report to the Board of Directors from time to time as is deemed appropriate by the Committee or at the request of the Board of Directors.

6.

ADVISORY BODIES

- (a) Establishment. The Board of Directors may create one or more advisory bodies, which shall advise the Board of Directors on such matters as the Board may determine from time to time. All members of all advisory bodies shall be appointed by, and shall serve at the pleasure of, the Board of Directors. An advisory body may be composed in part or in whole of individuals who are not Directors. Advisory bodies shall have such purposes as are assigned to them by the Board of Directors, but in no case shall any advisory body have any authority to bind the Corporation in regard to any decision, agreement or representation, or otherwise, and in no case shall any individual assume the rights or responsibilities of a Director or officer by virtue of serving on such body.
- (b) Panel of Honorary Directors. The Panel of Honorary Directors shall be an advisory body. Any former Director shall be eligible to serve as an Honorary Director. Honorary Directors may attend meetings of the Board of Directors, other than executive sessions, shall receive copies of all mailings to Directors and may participate in Board meetings, but shall have no vote on any matter.

7.

POLICIES

- (a) Conflict of Interest. The Board of Directors shall adopt a policy on conflicts of interest, and shall review that policy from time to time to ensure that it provides appropriate guidance and protections. The conflict of interest policy shall include, at a minimum, the following provisions:

(i) a definition of the circumstances that constitute a conflict of interest; (ii) procedures for disclosing a conflict of interest to the Audit Committee or other committee of independent Directors or, if there are no such committees, to the Board; (iii) a requirement that the person with the conflict of interest not be present at or participate in Board or committee deliberation or vote on the matter giving rise to such conflict; (iv) a prohibition against any attempt by the person with the conflict to influence improperly the deliberation or voting on the matter giving rise to such conflict; (v) a requirement that the existence and resolution of the conflict be documented in the Corporation's records, including in the minutes of any meeting at which the conflict was discussed or voted upon; and (vi) procedures for disclosing, addressing, and documenting related party transactions in accordance with §715 of the New York Not-For-Profit Revitalization Act of 2013.

The conflict of interest policy shall require that prior to the initial election of any Director, and annually thereafter, such Director shall complete, sign and submit to the Secretary of the Corporation a written statement identifying, to the best of the Director's knowledge, any entity of which such Director is an officer, director, trustee, member, owner (either as a sole proprietor or a partner), or employee and with which the Corporation has a relationship, and any transaction in which the Corporation is a participant and in which the Director might have a conflicting interest. The policy shall require that each Director annually resubmit such written statement. The Secretary of the Corporation shall provide a copy of all completed statements to the chair of the Audit Committee or other committee of independent Directors or, if there are no such committees, to the Board.

- (b) Whistleblower Protection. The Board of Directors shall adopt a policy that encourages individuals to come forward with credible information on illegal practices or violations of policies of the Corporation, and shall review that policy from time to time to ensure that it provides appropriate guidance and protections. The whistleblower policy shall include the following provisions: (i) procedures for the reporting of violations or suspected violations of laws or corporate policies, including procedures for preserving the confidentiality of reported information; (ii) a requirement that an employee, officer or Director of the corporation be designated to administer the whistleblower policy and to report to the Audit Committee or other committee of independent Directors or, if there are no such committees, to the Board; and (iii) a requirement that a copy of the policy be distributed to all Directors, officers, employees and to volunteers who provide substantial services to the Corporation.
- (c) Related Party Transactions. A "related party" means (i) any Director, officer or key employee of the Corporation or any affiliate of the Corporation; (ii) any relative of any Director, officer or key employee of the Corporation or any affiliate of the Corporation; or (iii) any entity in which any individual described in

clauses (i) and (ii) of this subparagraph has a thirty-five percent or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent.

A "related party transaction" means any transaction, agreement or any other arrangement in which a related party has a financial interest and in which the Corporation or any affiliate of the corporation is a participant.

The Corporation shall not enter into any related party transaction unless the transaction is determined by the Board to be fair, reasonable and in the Corporation's best interest at the time of such determination. Any Director, officer or key employee who has an interest in a related party transaction shall disclose in good faith to the Board, or an authorized committee thereof, the material facts concerning such interest.

Prior to entering into any such transaction, the Board, or an authorized committee thereof, shall: (i) consider alternative transactions to the extent available; (ii) approve the transaction by not less than a majority vote of the Directors or committee members present at the meeting; and (iii) contemporaneously document in writing the basis for the Board or authorized committee's approval, including its consideration of any alternative transactions.

No related party may participate in deliberations or voting relating to matters set forth in this section; provided that nothing in this section shall prohibit the Board or authorized committee from requesting that a related party present information concerning a related party transaction at a Board or committee meeting prior to the commencement of deliberations or voting relating thereto.

- (d) Additional Policies. The Board of Directors shall adopt additional policies, as it sees fit and from time to time, in order to facilitate the efficient administration of the Corporation's affairs, and in order to protect and promote the quality and integrity of the Corporation's pursuits.

8.

RECORDS AND REPORTS

- (a) Annual Financial Review. The Board of Directors shall hold a regular meeting, no later than December 31st of each year, dedicated in part to reviewing the financial performance of the Corporation during the preceding fiscal year. The President and the Treasurer shall present at the annual financial review a report, showing in appropriate detail each of the following in regard to the most recently completed fiscal year:

- (i) The assets and liabilities of the Corporation, and any assets held in trust;
- (ii) The principal changes in assets and liabilities of the Corporation, and any assets held in trust;
- (iii) The revenues and receipts of the Corporation, both restricted and unrestricted as to particular purposes;
- (iv) The expenses and disbursements of the Corporation, for both general and restricted purposes; and
- (v) Accounts of all restricted assets and the use made of such assets and of the income thereof.

The report shall be verified by the President and the Treasurer or by a majority of the Directors then serving, or certified by an independent public or certified public accountant or a firm of such accountants selected by the Board of Directors, and shall be attached to the minutes of the next regular meeting of the Board of Directors.

- (b) Corporate Records. The Corporation shall maintain corporate records including, at a minimum, each of the following:
 - (i) The Corporation's Certificate of Incorporation, with all amendments thereto;
 - (ii) The Corporation's By-laws, as amended from time to time;
 - (iii) Minutes of each meeting of the Board of Directors and of the Executive Committee;
 - (iv) Each resolution adopted by the Board of Directors or any committee without a meeting, together with all written consents thereto; and
 - (v) Copies of all corporate tax returns, registrations and other filings with federal, state and local authorities.

INDEMNIFICATION**(a) Indemnification.**

- (i) The Corporation shall, to the fullest extent permitted by the NPCL, indemnify any individual made or threatened to be made a party in any civil or criminal action or proceeding by reason of the fact that such individual, or his or her testator or intestate, is or was a Director, officer, employee or agent of the Corporation, or, at the request of the Corporation, served any other organization, entity or other enterprise in any capacity, to the full extent and in all such circumstances as shall be permitted under the NPCL, and upon proper authorization all such indemnified costs and expenses incurred shall be advanced by the Corporation pending the final disposition of such action or proceeding.
- (ii) Such required indemnification shall be subject to the exception that no indemnification may be made to or on behalf of any Director, officer, employee or agent in the event and to the extent that a judgment or other final adjudication adverse to the Director, officer, employee or agent establishes that such individual's acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or were a knowing violation of law, or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled (provided, however, that indemnification shall be made upon any successful appeal of any adverse judgment of final adjudication).
- (iii) No indemnification shall be made under this Article 9 if such indemnification would be inconsistent with a provision of the Corporation's Certificate of Incorporation, as may be in effect at the time of the accrual of the alleged cause of action asserted in the threatened or pending action or proceeding, which prohibits or otherwise limits such indemnification.
- (iv) The Board of Directors may elect to advance expenses incurred in defending a civil or criminal action or proceeding in advance of the final disposition of such action or proceeding upon (i) receipt of an undertaking, by or on behalf of the Director, officer, employee or agent to whom such funds are advanced, to repay such amount as, and to the extent, required by law, and (ii) upon the affirmative vote of a majority of the disinterested Directors present at a meeting at which disinterested Directors form a quorum.

- (b) Other Rights. The foregoing right of indemnification shall not be deemed exclusive of any other right to which any Director, Officer employee or agent may be entitled.

10.

AMENDMENTS

- (a) Certificate of Incorporation. Any abridgement, amendment or addition to the Certificate of Incorporation of the Corporation shall require the affirmative vote of a majority of the Directors then serving.
- (b) By-Laws. Any abridgement, amendment or addition to these By-laws shall require the affirmative vote of a majority of the Directors then serving.

11.

MISCELLANEOUS

- (a) Fiscal Year. The fiscal year of the Corporation shall be as determined by the Board of Directors.
- (b) Headings. Headings are provided in these By-laws for reference only, and shall not control any interpretation of the content of any provision hereof.
- (c) Delivery of Notice. Whenever any notice is required under these By-laws, such notice shall be given in writing, and may be delivered by any of the following means:
 - (i) by regular or certified mail, in which case such notice shall be sent to the addressee's last known street address, and shall be deemed effective three days after mailing;
 - (ii) by courier service, in which case such notice shall be sent to a location where the addressee is reasonably expected to be able to accept delivery, and shall be deemed effective upon first attempted delivery;
 - (iii) by fax machine, in which case such notice is given when directed to the member's fax number as it appears on the record of members or as filed with the Secretary of the Corporation. Notwithstanding the foregoing, such notice shall not be deemed to have been given electronically (i) if the Corporation is unable to deliver two consecutive notices; or (ii) the

Corporation otherwise becomes aware that notice cannot be delivered to the member by facsimile telecommunication;

- (iv) by email, in which case such notice is given when directed to the member's email address as it appears on the record of members or as filed with the Secretary of the Corporation. Notwithstanding the foregoing, such notice shall not be deemed to have been given electronically (i) if the Corporation is unable to deliver two consecutive notices; or (ii) the Corporation otherwise becomes aware that notice cannot be delivered to the member by email; or
 - (v) in person, in which case such notice shall be effective upon delivery.
- (d) Fictitious Names. The Corporation shall not conduct any activities in New York State under any name other than the name appearing in its Certificate of Incorporation, or another name duly registered as a fictitious or alternative name pursuant to applicable New York law.
- (e) Investment Management. Each contract pursuant to which any investment advisor, investment counsel or manager, bank or trust company is granted authority to act in place of the Board of Directors in regard to investment or reinvestment of the Corporation's funds shall provide that such contract may be terminated by the Board of Directors at any time, without penalty, upon not more than sixty days' notice.

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Under IRS regulations we are required to add the following IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding any penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction(s) or tax-related matter(s) addressed herein. This

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