



**BYLAWS  
of**

**NSHMBA TEXAS, INC.  
[to be named National Society of Hispanic MBA's, Inc.]  
(as of April 25, 2009)**

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**BYLAWS**  
**of**  
**NSHMBA TEXAS, INC.**  
**[to be named National Society of Hispanic MBA's, Inc.]**

**ARTICLE I**  
**OFFICES**

Section 1.1. **Registered Office.** The registered office of NSHMBA Texas, Inc., a Texas non-profit corporation to be named National Society of Hispanic MBA's, Inc. upon the filing of a certificate of amendment to the Certificate of Formation (as defined below) (the "**Corporation**"), shall be located at the address set forth in the Certificate of Formation of the Corporation, as the same may be amended or amended and restated from time to time (the "**Certificate of Formation**"), or such other place as may be designated by the Corporation's board of directors (the "**Board of Directors**") and filed with the Secretary of State of the State of Texas in accordance with the Texas Business Organizations Code, as it may hereafter be amended, restated or codified (the "**TBOC**").

Section 1.2. **Principal Office.** The principal office of the Corporation shall be located in the County of Dallas in the State of Texas. The Board of Directors may change the principal office of the Corporation at any time and from time to time. The Corporation may have additional business offices at such places, either within or without the State of Texas, as the Board of Directors may designate from time to time.

**ARTICLE II**  
**PURPOSES**

Section 2.1. **Non-Profit Purposes.** The purposes for which the Corporation is formed are to operate a business league within the meaning of Internal Revenue Code §501(c)(6) or the corresponding provisions of any subsequent federal tax law (the "**Code**"), subject to such limitations and conditions as are or may be prescribed by federal or Texas law, and to exercise such other powers which now or hereafter may be conferred by law upon a corporation organized for the purposes herein set forth, or necessary or incidental to the powers so conferred, or conducive to the attainment of the above-stated purposes of the Corporation. Specifically, the Corporation is organized to establish a business league to promote and facilitate the career and business interests of persons of Hispanic descent seeking or who have obtained advanced business education degrees or pursued business careers, but not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual, with the surplus generated by its operations, after payment of all operating expenses of the Corporation and establishment of any reserve(s) that the Directors may establish, in each year to be devoted to the purposes of or distributed to the National Society of Hispanic MBAs, a California non-profit corporation that is qualified under section 501(c)(3) of the Code. The Corporation's purposes shall in all events, and notwithstanding any contrary provision of the Certificate of Formation or these Bylaws, be construed to be exclusively for purposes that are within the meaning of §501(c)(6) of the Code.

**ARTICLE III**  
**MEMBERSHIP**

Section 3.1. **No Members.** The Corporation shall have no "members" as that term is used in Chapter 22 of the TBOC.

Section 3.2. **NSHMBA Members.** Notwithstanding Section 3.1, the Corporation may use the word “Members” to describe persons having such status and privileges as may be prescribed herein or as determined by the Board of Directors. Except as expressly provided herein, such Members shall have no voting rights or other legal or equitable right in the Corporation. The Board of Directors may, by resolution, establish one or more classes of Members and provide for eligibility requirements for, and rights and duties of, such classes of Members, including the obligation to pay dues. The Board of Directors may, by resolution, terminate any class of Members. Each Member shall be a “member” of the Chapter (as defined below) in the region in which such Member is domiciled; provided, however, that upon application to the Board of Directors, any Member may, upon the decision of the Board of Directors, in the Board’s sole and complete discretion, be allowed to be a “member” of a Chapter other than the Chapter in the region where such Member is domiciled. The determination of Board of Directors as to which Chapter a Member belongs shall be binding on all parties. For purposes of these Bylaws, “persons” means any individual, partnership, limited partnership, joint venture, corporation, limited liability company, estate, custodian, trustee, executor, administrator, nominee, representative, unincorporated organization, sole proprietorship, trust, employee benefit plan, tribunal, governmental entity, department or agency or other entity. Initially, the Corporation shall have the following four classes of Members with the privileges and obligations described in these Bylaws or as may be established by the Board from time to time:

A. **Regular Members.** Individuals who either (i) hold at least a Master’s Degree in Business Administration or a graduate degree in a business-related field of study or (ii) are enrolled in a program leading to a Masters Degree in Business Administration or a graduate degree in a business-related field of study, in all cases from an accredited educational institution, are eligible to become Regular Members.

B. **Associate Members.** Persons who are not eligible to become Regular Members, including but not limited to undergraduate students and organizations, are eligible to become Associate Members.

Section 3.3. **Admission of Members.** The Board of Directors shall establish procedures for application for membership. The Board shall have the right to refuse membership to any applicant in its sole and complete discretion.

Section 3.4. **Membership Dues.** Each Member shall pay to the Corporation, within the time and on the conditions set by the Board, dues and fees in amounts to be fixed from time to time by the Board.

Section 3.5. **Good Standing.** Those Members who have paid the required dues, fees, and assessments, if any, and whose membership has not been terminated pursuant to Section 3.10 shall be Members in good standing.

Section 3.6. **Membership Roster.** The Corporation shall keep a membership roster containing the name of each Member, the type of membership of such Member, and the last address provided to the Corporation by such Member for purposes of notice.

Section 3.7. **Non-liability of Members.** No Member shall be personally liable for the debts, liabilities, or obligations of the Corporation.

Section 3.8. **Transferability of Memberships.** Membership in the Corporation, or any right arising therefrom, may not be transferred or assigned. Any attempted transfer shall be null and void and shall not be recognized by the Corporation for any purpose.

Section 3.9. **Designated Representatives.** Any Member that is an organization shall exercise all the rights and obligations of membership, through a designated representative. Each Member that is an organization shall designate its representative in writing executed by an authorized officer of the organization and delivered to the Secretary of the Corporation, which shall be retained with the membership records of the Corporation. A Member may change its designated representative at any time and from time to time by delivering a subsequent written designation of representative to the Secretary of the Corporation.

Section 3.10. **Termination of Membership.** Each Member's membership in the Corporation shall continue until terminated upon the earliest to occur of: (i) termination pursuant to the provisions of Section 3.10.A; (ii) delivery by such Member of written resignation to the membership department of the Corporation; (iii) (a) in the case of a Member that is an individual, the death of such Member or (b) in the case of a Member that is other than an individual, the dissolution, winding up, liquidation, reorganization or other termination of such Member. No such termination shall relieve the applicable Member of any accrued but unpaid obligations of such member to the Corporation.

A. **Basis of Termination.** The Board of Directors shall have the right to suspend or terminate any Member's membership, for any reason, in the Board's sole and complete discretion. A Member's membership shall automatically terminate upon the occurrence of any of the following events or conditions:

(i) *Expiration.* If a membership is issued for a specified period of time, such membership shall terminate automatically upon the expiration of such period of time, unless the affected Member elects to renew such Member's membership, pursuant to the procedures determined by the Board in its sole and complete discretion.

(ii) *Nonpayment of Dues.* If any Member fails to pay the necessary dues, fees or assessments, the defaulting Member's membership shall terminate automatically upon the thirty-first day after delivery of written notice of such failure; provided, however, that such Member's membership shall not terminate if such Member pays the entire amount of delinquent dues or fees before the expiration of such thirty-day period.

(iii) *Failure to Qualify.* If the Board of Directors, or any committee or person delegated by the Board of Directors, determines, on a good faith basis, that a Member no longer meets the qualifications set forth in Section 3.2, such Member's membership in the Corporation shall terminate upon the delivery of written notice of such finding to the applicable Member.

(iv) *Interests of Corporation.* If the Board of Directors, or any committee or person delegated by the Board of Directors, determines, on a good faith basis, that continued participation by a Member in the Corporation, as a Member, is not in the best interests of the Corporation and the furtherance of the Corporation's purposes, such Member's membership shall terminate upon the delivery of written notice of such finding to the applicable Member.

B. **Termination Procedures.** All terminations of a Member's membership in the Corporation shall be carried out in accordance with any policies and procedures established and approved by the Board of Directors from time to time.

C. **Effect of Termination or Suspension.** Upon the termination or suspension of any Member's membership in the Corporation, such terminated or suspended Member shall: (i) have no right to vote in any election of Chapter Officers or any other Corporation matter on which Members are requested to vote; and (ii) have no right to access any information the right of access to which is reserved

only to the Members, until, in the case of a Member's suspension, such Member's membership in reinstated by the Corporation.

#### **ARTICLE IV CHAPTERS AND CHAPTER OFFICERS**

Section 4.1. **Chapters.** The Corporation shall be organized into regional chapters (each such regional chapter, a "***Chapter***"). The formation and termination of Chapters, and the geographic scope of each Chapter, shall be determined by the Board of Directors, from time to time in its sole and complete discretion. Chapters are organizational units of the Corporation and do not exist independently of the Corporation. Members of a Chapter and Chapter Officers (defined herein) shall function in compliance with the terms set forth in the Certificate of Formation, these Bylaws, the policies established by the Board of Directors from time to time, and the decisions of the Board and its authorized committees, agents and representatives.

Section 4.2. **Chapter Officers.**

A. **Chapter Officers.** Subject to any policies established by the Board from time to time, the Members of each Chapter shall elect the following officers (the "***Chapter Officers***"): a Chapter President, a Chapter Executive Vice-President, Chapter Secretary, Chapter Treasurer and any additional officers determined necessary by the Members of such Chapter. Chapter Officers shall govern their respective Chapters in accordance with the terms and conditions of the Certificate of Formation, these Bylaws, the policies established by the Board of Directors from time to time and decisions of the Board or its authorized committees, agents and representatives. Chapter Officers have no authority to bind the Corporation without prior written approval by the Board of Directors, or a person or committee authorized by the Board, in its sole and complete discretion.

B. **Chapter President.** The Chapter President shall be the chief executive officer of his/her Chapter and shall, subject to control of the Board and policies established by the Board from time to time, generally supervise, direct and control the business and other officers of his/her Chapter. The Chapter President shall preside at all meetings of the Members of the Chapter. The Chapter President shall have such other powers and duties as may be prescribed by the Board from time to time.

C. **Chapter Executive Vice-President.** The Chapter Executive Vice-President shall, in the absence of the Chapter President, carry out the duties of the Chapter President and shall have such other powers and duties as may be prescribed by the Board from time to time.

D. **Chapter Secretary.** The Chapter Secretary shall supervise the keeping of a full and complete record of the proceedings of the Chapter meetings and shall have such other powers and duties as may be prescribed by the Board from time to time.

E. **Chapter Treasurer.** The Chapter Treasurer shall supervise the collection of all dues and fees from the Members of such Chapter Treasurer's Chapter, the charge and custody of all funds of the Chapter and the deposit of such funds in the manner prescribed by the Board of Directors, shall render reports and accountings as required, and shall have such other powers and duties as may be prescribed by the Board from time to time.

F. **Qualification of Chapter Officers.** Each Chapter Officer must: (i) be an individual who is a Regular Member; (ii) have been a Member in good standing for the twelve (12) months preceding his or her election; and (iii) sign a declaration, in a form acceptable to the Corporation, stating that he or she has received a copy of these Bylaws and has read and understands the same. If



there occurs any vacancy in any Chapter office, the then-current Chapter Officers for such Chapter may appoint a Regular Member or an Associate Member (including any designated representative of an Associate Member) to fill such vacancy until the next election of Chapter Officers. Any Associate Member appointed to fill a vacancy must satisfy the qualifications set forth in clauses (ii) and (iii) of the first sentence of this Section 4.2.F. Notwithstanding any provision in this Section 4.2.F to the contrary, it shall not be a prerequisite for any Chapter Officer to have been a Member in good standing for the twelve (12) months prior to his or her election during the first year following the Corporation's formation.

G. Election of Chapter Officers. Chapter Officers shall be elected by a vote of the majority of the Regular Members of such Chapter. Chapter Officers shall be elected on a biennial basis. The Board of Directors, or the Elections Committee, may from time to time establish procedures for the election of Chapter Officers.

H. Term of Chapter Officers. All Chapter Officers shall serve for a term of two (2) years. Notwithstanding the foregoing, any Chapter Officer that is appointed to fill a vacancy shall serve for the unexpired term of his or her predecessor.

Section 4.3. Chapters in Formation. Any newly designated Chapter shall be a "*Chapter in Formation*" for the first year following its designation as a Chapter. Chapters in Formation shall be subject to the provisions of this Section 4.3 and such additional policies and procedures established by the Board from time to time. To the extent any of the provisions in this Section 4.3 conflict with or are inconsistent with the remaining provisions of this Article IV, the terms in this Section 4.3 shall govern.

A. Officers of Chapters in Formation. Chapter Officers of Chapters in Formation shall be appointed by the persons recognized by the Board as the founders of such Chapter. Each initial officer of a Chapter in Formation shall be appointed for a term of two (2) years.

B. Chapter Presidents of Chapters in Formation. Chapter Presidents of Chapters in Formation are not eligible to vote in elections for Directors of the Corporation or on any other matter voted upon by the Chapter Presidents.

Section 4.4. Annual and Regular Meetings of the Chapter Presidents. Unless otherwise determined by the Board regular or annual meetings of the Chapter Presidents are not required.

Section 4.5. Special Meetings of Chapter Presidents. Special meetings of the Chapter Presidents may be called by the Board of Directors, by the Chair or the CEO, or on the written request of twenty-five percent of the Chapter Presidents, but specifically excluding Chapter Presidents of Chapters in Formation.

Section 4.6. Quorum and Action by Chapter Presidents. A majority of the Chapter Presidents then in office shall constitute a quorum for any meeting of the Chapter Presidents. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of enough Chapter Presidents to leave less than a quorum; provided, however, that, except as otherwise provided herein, no action may be approved without the vote of at least a majority of the number of Chapter Presidents required for a quorum. Except as otherwise provided herein, the vote of a majority of Chapter Presidents present and voting at a duly held meeting at which a quorum is present shall constitute the act of the Chapter Presidents, unless the TBOC, the Certificate of Formation or these Bylaws require the act of a greater number.

Section 4.7. **Record Dates.** For any notice, vote (at a meeting or by written consent), or exercise of rights, the Board of Directors may, in advance, by resolution, fix a record date, and only Chapter Presidents of record on the date so fixed shall be entitled to notice, vote, or exercise rights, as the case may be. For this purpose, a Chapter President as of the close of business on the record date shall be deemed the Chapter President of record.

A. **Notice of and Vote at Meetings.** Unless otherwise fixed by the Board of Directors, the record date for the purpose of determining which Chapter Presidents are entitled to notice of and to vote at any Chapter Presidents' meeting, shall be the business day preceding the date on which notice for that meeting is given.

B. **Voting by Written Consent.** Unless otherwise fixed by the Board of Directors, the record date for the purpose of determining which Chapter Presidents are entitled to vote by written consent shall be the day on which the first written consent is mailed or solicited.

Section 4.8. **Voting by Proxy.**

A. **General.** Each Chapter President may vote either in person or by proxy executed in writing by the Chapter President or his duly authorized attorney in fact. A telegram, telex, cablegram, telefacsimile, or other form of Electronic Transmission, including telephone transmission, by the Chapter President, or a photographic, photostatic, facsimile or similar reproduction of a writing executed by the Chapter President, shall be treated as an execution in writing for purposes of this Section 4.8. Any Electronic Transmission must contain or be accompanied by information from which it can be determined that the transmission was authorized by the Chapter President. No proxy shall be valid after 11 months from the date of its execution, unless otherwise provided in the proxy. Each proxy shall be revocable unless expressly conspicuously provided therein to be irrevocable and unless the proxy is coupled with an interest. Proxies coupled with an interest include the appointment as proxy of a party to a voting agreement created under Section 6.252 of the TBOC.

B. **Content of Solicitations of Proxies.** Any solicitation for proxies shall set forth the proposed action and each form of proxy shall provide an opportunity to specify approval or disapproval of such proposed action.

C. **Time for Return of Proxies.** All solicitation for proxies shall be provided in a timely manner and shall allow a reasonable time within which to return a proxy to the Corporation. Each solicitation of proxy shall state on its face the date by which an executed proxy must be returned in order to be counted.

D. **Solicitation Rules.** Proxies shall be solicited in a manner consistent with the requirements for notice of Chapter Presidents' meetings. The Corporation may send the solicitation of proxy and any related materials, and the member may return an executed proxy, by Electronic Transmission, in compliance with Article XII.

E. **Election Solicitations of Proxy.** Any solicitation for proxy in connection with the election of Directors shall set forth the names of the candidates who have been properly nominated at the time the solicitation is issued.

**ARTICLE V**  
**BOARD OF DIRECTORS**

Section 5.1. **Powers.** The Corporation shall have powers conferred by the laws of the State of Texas upon corporations organized under the TBOC, subject to the restrictions set forth in the Certificate of Formation and in these Bylaws. All powers and activities of the Corporation shall be exercised and managed by the Board of Directors directly or, if delegated, under the ultimate direction of the Board.

Section 5.2. **Number of Directors.** The number of directors (each a “*Director*”) shall be not less than three (3) nor more than twenty (20). The number of Directors may be increased or decreased from time to time by resolution of the Board of Directors, but no decrease shall have the effect of shortening the term of any incumbent Director. Directors need not be residents of the State of Texas. As of the date of the adoption of these Bylaws, the number of Directors shall be eleven (11).

Section 5.3. **Limitations on Interested Persons.** At all times, not more than forty-nine percent (49%) of the Directors of the Corporation may be “interested persons.” An interested person means either:

(i) any person currently being compensated by the Corporation for services rendered to the Corporation within the previous twelve months, whether as a full-time or part-time employee, independent contractor, or otherwise; or

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

Section 5.4. **Election of Directors.**

A. **Chief Executive Officer.** The person acting as CEO shall be an ex officio member of the Board of Directors but only for so long as such person continues to be the CEO. The CEO shall be entitled to receive notice of and to attend all meetings of the Board of Directors but, except as expressly provided herein, shall not be entitled to vote on matters before the Board of Directors.

B. **Membership-Based Directors and At-Large Directors.** All Directors shall be either Membership-Based Directors or At-Large Directors. Membership-Based Directors shall be any Director who has previously held (but does not hold at the time of election) a position as a Chapter Officer. At-Large Directors are not required to be Members nor ex-Chapter Officers, but shall have such experience or background that may be beneficial to the Corporation, as determined by the Board in its sole and complete discretion. Although not required, the Corporation aspires for approximately fifty percent (50%) of the total number of authorized Directors to be Membership-Based Directors and fifty percent (50%) to be At-Large Directors.

(i) All Directors are elected pursuant to the following procedures:

(a) The Nominating Committee shall provide a list of nominees no greater in number than the number of open seats on the Board to the Board of Directors at least ten (10) days prior to the scheduled meeting for election of directors. The Board of Directors shall then vote to endorse all or any of such nominees at least five (5) days prior to such meeting. All Directors must be elected from nominees provided by the Nominating Committee that have been endorsed individually by the Board of Directors (such nominees collectively, the “*Endorsed Nominees*”).

(b) The Directors then in office, including the CEO, and the individuals then serving as Chapter Presidents shall elect the Membership-Based Directors and the At-Large Directors from the slate of Endorsed Nominees. A quorum for at any meeting at which elections for directors are held shall be at least a majority of the number of Directors then in office, but Chapter Presidents shall be invited to participate in such vote as well. Each Director shall be elected individually by the affirmative vote of a majority of the Directors, including the CEO, and the Chapter Presidents present at a meeting held for the election of directors.

(c) If the Nominating Committee fails to provide a sufficient number of nominees, or the Board fails to endorse a sufficient number of nominees, to fill all open Director seats, only those seats for which there are a sufficient number of Endorsed Nominees shall be filled, and the remaining seats shall remain vacant. If there are a sufficient number of Endorsed Nominees to fill the seats to be elected, but the Chapter Presidents and the Directors then in office fail to elect enough Directors from the slate of Endorsed Nominees, only those Directors who are elected shall serve and the remaining seats shall remain vacant. In each case, the Directors in office at the time of the election shall determine whether a new election will be held prior to the next scheduled annual election. Pending the occurrence of such new election, the Directors then in office shall fill any vacancy in the Board of Directors, pursuant to Section 5.6, in the event an insufficient number of directors are elected at an annual election, for any reason. Any new election of Directors shall be held pursuant to the procedures set forth in this Section 5.4.B, including the nomination and endorsement process.

Section 5.5. **Term of Office of Directors.** Each Director shall be elected for a term of four (4) years, and for no more than two (2) consecutive terms, except that Directors appointed to fill vacancies by reason of any newly-created directorships may be appointed to initial terms of one, two, three or four years as determined by the Board so as to maintain approximately equal number of directors' terms expiring in any year. One-fourth of the total authorized number of directors shall be elected in each year, provided that if the total authorized number of directors at any time shall not be evenly divisible by four, a different number of directors must be elected one year out of every four.

Section 5.6. **Vacancies.** A vacancy shall be deemed to exist on the Board in the event that the actual number of Directors is less than the authorized number for any reason. Vacancies may be filled by the remaining Directors for the unexpired portion of the term of such vacant directorship or until a new election is held pursuant to Section 5.4.

Section 5.7. **Resignation and Removal.** Any Director may resign as a Director by delivery of a written resignation in writing to the Chair or the Secretary. Resignations shall be effective upon receipt of such written resignation by the Chair or the Secretary, unless a later effective date is specified in the resignation. A majority of the Directors then in office may remove any Director at any time, with or without cause. Chapter Presidents may not vote to remove a Director, although they may, by action of a majority of the Chapter Presidents (other than Chapter Presidents of Chapters in Formation) then in office, recommend that the Board do so.

Section 5.8. **Annual Meeting.** A meeting of the Board of Directors shall be held at least once a year. Notice of an annual meeting shall be provided to the Directors in accordance with Section 5.10.

Section 5.9. **Special Meetings.** Special meetings of the Board of Directors may be called by the Chair or any two Directors. Notice of a special meeting shall be provided to the Directors in accordance with Section 5.10.

Section 5.10. **Notice.** Notice of the annual meeting and any special meetings of the Board of Directors shall state the date, place, and time of the meeting and shall be given to each Director at least four days before any such meeting if given by first-class mail or forty-eight hours before any such meeting if given personally or by Electronic Transmission.

Section 5.11. **Waiver of Notice.** The transactions of any meeting of the Board of Directors, however called and noticed and wherever held, shall be valid as though taken at a meeting duly held after proper call and notice, if a quorum is present, and if, either before or after the meeting, each of the Directors not present provides a waiver of notice, a consent to holding the meeting, or an approval of the minutes in writing. The waiver of notice or consent need not specify the purpose of the meeting. All waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Notice of a meeting shall also be deemed given to any Director who attends the meeting without protesting the lack of adequate notice before the meeting or at its commencement.

Section 5.12. **Quorum.** A majority of the total number of Directors then in office shall constitute a quorum, provided that in no event shall the required quorum be less than one-fifth of the authorized number of Directors or two directors, whichever is larger. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, except as otherwise provided in Section 5.6, Section 5.7, Section 5.13, Section 6.1, Article IX, Article X and Section 13.5 of these Bylaws or in the TBOC. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Directors; provided, however, that no action may be approved without the vote of at least a majority of the number of Directors required for a quorum.

Section 5.13. **Action Without a Meeting.** Any action required or permitted to be taken by the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by the number of Directors necessary to take such action at a meeting at which all of the Directors are present and voting. Such written consents shall state the date of each Director's signature and be filed with the minutes of the proceedings of the Board. Prompt notice of any action by Directors without a meeting by less than unanimous written consent shall be given to each Director who did not consent in writing to such action.

Section 5.14. **Telephone and Electronic Meetings.** Subject to the provisions required or permitted by the TBOC and these Bylaws for notice of meetings, Directors may participate in a meeting by means of remote communications equipment, except where a person participates in such meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. If authorized by the Board of Directors, and subject to any guidelines and procedures adopted by the Board of Directors, Directors not physically present at a meeting may, by means of remote communication, participate in a meeting and be considered present in person and may vote at such meeting held at a designated place or held solely by means of remote communication if: (A) the Corporation implements reasonable measures to verify that each person considered present and permitted to vote at the meeting by means of remote communication is a Director; (B) the Corporation implements reasonable measures to provide the Directors at the meeting by means of remote communication a reasonable opportunity to participate in the meeting and to vote on matters submitted to the Directors including the opportunity to read or hear the proceedings of a meeting substantially concurrently with the proceedings; and (C) the Corporation maintains a record of any vote or other action taken at the meeting by means of remote communication.

Section 5.15. **Standard of Care.**

A. **General.** A Director shall perform the duties of a director, including duties as a member of any Board Committee (herein defined) on which such Director may serve, in good faith, with ordinary care, in a manner such Director believes to be in the best interest of the Corporation.

B. **Reliance of Certain Information.** In performing the duties of a director, a Director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

(i) one or more officers or employees of the Corporation whom the Director believes to be reliable and competent as to the matters presented;

(ii) counsel, independent accountants, or other persons as to matters which the Director believes to be within such person's professional or expert competence; or

(iii) a Board Committee upon which the Director does not serve, as to matters within such committee's designated authority, provided that the Director believes such committee merits confidence;

(iv) so long as in any such case, the Director acts in good faith after reasonable inquiry when the need therefore is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

C. **Non-liability of Directors.** Except as provided in Article X, a person who performs the duties of a Director in accordance with this Section 5.15 shall have no liability based upon any failure or alleged failure to discharge that person's obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat a public or charitable purpose to which a corporation, or assets held by it, are dedicated.

D. **Investments.** Except with respect to assets held for use or used directly in carrying out the Corporation's purposes, the Board shall avoid speculation in investing, reinvesting, purchasing or acquiring, exchanging, selling, and managing the Corporation's investments, looking instead to the permanent disposition of the funds, considering the probable income as well as the probable safety of the Corporation's capital. No investment violates this section where it conforms to provisions authorizing such investment contained in an instrument or agreement pursuant to which the assets were contributed to the Corporation.

Section 5.16. **Inspection.** Every Director shall have the right at any reasonable time to inspect and copy all books, records, and documents for a purpose reasonably related to such Director's service as a director.

Section 5.17. **Director Compensation.** No Director shall receive compensation from the Corporation for services as a Director; provided, however, that the Board may authorize the advance or reimbursement to a Director of actual reasonable expenses incurred in carrying out his or her duties as a Director, such as for attending meetings of the Board and Board Committees. Notwithstanding the foregoing, nothing herein contained shall be construed to preclude any Director from serving the Corporation in any other capacity and receiving compensation therefor.

Section 5.18. **Executive Compensation Review.** The Board of Directors (or a Board Committee) shall review any compensation packages (including all benefits) of the CEO and such other

officers as may be required by law or which shall be so designated by resolution of the Board of Directors from time to time, and shall approve such compensation only after determining that the compensation is just and reasonable. This review and approval shall occur when such officer is hired, when the term of employment of such officer is renewed or extended, and when the compensation of such officer is modified, unless the modification applies to substantially all of the employees of the Corporation.

## **ARTICLE VI COMMITTEES**

Section 6.1. **Board Committees.** The Board of Directors may, by resolution adopted by a majority of the Directors then in office, create any number of committees (the “***Board Committees***”). Each Board Committee shall consist of two or more Directors, and only of Directors. Each appointee to any Board Committee shall serve at the pleasure of the Board. Appointments to any Board Committee shall be by a majority vote of the Directors then in office. Board Committees may be given all the authority of the Board, except for the powers to:

- (i) set the number of Directors within a range specified in these Bylaws;
- (ii) elect Directors or remove Directors without cause;
- (iii) fill vacancies on the Board of Directors or on any Board Committee;
- (iv) elect or remove officers of the Corporation;
- (v) amend or repeal these Bylaws or adopt new Bylaws;
- (vi) adopt amendments to the Certificate of Formation;
- (vii) amend or repeal any resolution of the Board of Directors which by its express terms is not so amendable or repealable;
- (viii) create any other Board Committees or appoint the members of any Board Committees; or
- (ix) approve any merger, reorganization, voluntary winding up and termination, or disposition of substantially all of the assets of the Corporation.

Section 6.2. **Advisory Committees.** The Board of Directors may establish one or more advisory committees to the Board (the “***Advisory Committees***”). The members of any Advisory Committee may consist of Directors or non-directors and may be appointed as the Board determines. Advisory Committees shall not exercise the authority of the Board to make decisions on behalf of the Corporation. Advisory Committees shall have the power to make recommendations to the Board or any Board Committee and to implement Board or Board Committee decisions and policies under the supervision and control of the Board or any Board Committee.

Section 6.3. **Executive Committee.** The Chair, Vice-Chair, Secretary, Treasurer and such other Directors designated by the Board of Directors from time to time shall constitute the Executive Committee. The Executive Committee shall have and may exercise all of the authority of the Board of Directors as may be delegated, by resolution, by the Board of Directors from time to time.

Section 6.4. **Audit Committee.** For any tax year in which the Corporation has gross revenues of \$2 million or more, the Corporation shall have an Audit Committee whose members shall be appointed by the Board of Directors, and who may include both Directors and non-directors, subject to the following limitations: (A) members of the Finance Committee shall constitute less than one-half of the membership of the Audit Committee; (B) the chair of the Audit Committee may not be a member of the Finance Committee, if any; (C) the Audit Committee may not include any officer of the Corporation, including, without limitation, the Chair, the CEO, the Treasurer or the chief financial officer, if any; (D) the Audit Committee may not include any person who has a material financial interest in any entity doing business with the Corporation; and (E) Audit Committee members may not receive any compensation for their service.

(i) Provided that all members of the Audit Committee are Directors and the Audit Committee does not contain any prohibited members, the Audit Committee shall be deemed to be a Board Committee upon which the other Directors are entitled to rely as provided in Section 5.15.B;

(ii) The Audit Committee shall: (a) recommend to the Board of Directors the retention and, when appropriate, the termination of an independent certified public accountant to serve as auditor; (b) negotiate the compensation of the auditor on behalf of the Board; (c) confer with the auditor to satisfy the Audit Committee members that the financial affairs of the Corporation are in order; (d) review and determine whether to accept the audit; and (e) approve performance of any non-audit services provided to the Corporation by the auditor's firm.

Section 6.5. **Finance Committee.** The Finance Committee shall be a Board Committee. The chairperson of the Finance Committee shall be the Treasurer. The Finance Committee shall (A) oversee the financial operations of the Corporation, (B) review the details of the budget of the Corporation for recommendation to the Board, and (C) advise, report and recommend action to the Board on other matters pertaining to the finances of the Corporation.

Section 6.6. **Nominating Committee.** The Nominating Committee shall be a Board Committee. The Nominating Committee shall determine the qualifications necessary to be nominated for the positions of Membership-Based Director and At-Large Director, and recommend those nominees to the Board of Directors, as set forth in Section 5.4. The Nominating Committee shall follow such policies and procedures as are determined by the Board of Directors from time to time.

Section 6.7. **Elections Committee.** The Elections Committee shall be an Advisory Committee. The Elections Committee shall set policies for, and coordinate and supervise, the election of Chapter Officers. The membership and the policies and procedures of the Elections Committee shall be determined by the Board of Directors from time to time.

Section 6.8. **Meetings.**

A. **Meetings of Board Committees.** Meetings and actions of Board Committees shall be governed by and held and taken in accordance with the provisions of Article V of these Bylaws concerning meetings and actions of the Board of Directors, with such changes in the content of those Bylaws as are necessary to substitute the Board Committee and its members for the Board of Directors and its members. Minutes shall be kept of each meeting of any Board Committee and shall be filed with the corporate records.

B. **Meetings of Advisory Committees.** Subject to the authority of the Board of Directors, Advisory Committees may determine their own meeting rules and whether minutes shall be kept.



Section 6.9. **Governance of Committees.** The Board of Directors may adopt rules for the governance of any Board Committee or Advisory Committee not inconsistent with the provisions of these Bylaws.

## ARTICLE VII OFFICERS

Section 7.1. **Officers.** The officers of the Corporation shall be a Chair, a Vice-Chair, a Secretary, and a Treasurer. The Corporation may also have, at the discretion of the Directors, a CEO and such other officers as may be appointed by the Board of Directors. Any number of offices may be held by the same person, other than the offices of chair and secretary. The Chair shall be the “president” of the Corporation within the meaning of the TBOC.

Section 7.2. **Qualification.** Individuals eligible for the position of Chair or Vice-Chair must have served for at least one (1) year on the Board of Directors.

Section 7.3. **Election.** The incumbent Vice-Chair shall become the next Chair, if approved by the Board of Directors. If the Vice-Chair is not approved by the Board of Directors, the Board shall appoint the Chair. The remaining officers of the Corporation shall be nominated by a member of the Board of Directors, or a committee of the Board, and elected by a majority of the Board of Directors, and each shall serve at the pleasure of the Board, subject to the rights, if any, of an officer under any contract of employment.

Section 7.4. **Term.** The terms for the positions of Chair, Vice-Chair shall be two (2) years and the positions of Secretary and Treasurer shall be one (1) year.

Section 7.5. **Removal.** Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, with or without cause, by the Board of Directors or by an officer on whom such power of removal may be conferred by the Board of Directors.

Section 7.6. **Resignation.** Any officer may resign at any time by delivering written notice to the Board of Directors. Any resignation shall take effect on receipt of that notice by any other officer than the person resigning or at any later time specified by that notice and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party.

Section 7.7. **Vacancies.** A vacancy in any office for any reason shall be filled in the same manner as these Bylaws provide for election to that office.

Section 7.8. **Chair.** The Chair shall, subject to control of the Board, generally supervise, direct and control the business and other officers of the Corporation. The Chair shall preside at all meetings of the Board of Directors. The Chair shall have the general powers and duties of management usually vested in the office of Chair of the Corporation and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

Section 7.9. **Vice-Chair.** The Vice Chair shall, in the absence of the Chair, carry out the duties of the Chair and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

Section 7.10. **CEO.** The CEO shall, subject to control of the Board and the Chair: (A) be responsible for the general management of the affairs of the Corporation; (B) see that all orders and resolutions of the Board of Directors and any committee thereof are carried into effect; (C) perform all duties customarily performed by persons occupying the office of chief executive officer; and (D) have and exercise such other powers and perform such other duties as may be assigned to him from time to time by the Board of Directors or any committee thereof or the Chair.

Section 7.11. **Secretary.** The Secretary shall supervise the keeping of a full and complete record of the proceedings of the Board of Directors and its committees, shall supervise the giving of such notices as may be proper or necessary, shall supervise the keeping of the minute books of the Corporation, and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

Section 7.12. **Treasurer.** The Treasurer shall supervise the charge and custody of all funds of the Corporation, the deposit of such funds in the manner prescribed by the Board of Directors, and the keeping and maintaining of adequate and correct accounts of the Corporation's properties and business transactions, shall render reports and accountings as required, and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

## **ARTICLE VIII CERTAIN TRANSACTIONS**

Section 8.1. **Loans.** The Corporation shall not make any loan of money or property to, or guarantee the obligation of, any Director or officer; provided, however, that the Corporation may advance money to a Director or officer of the Corporation or any subsidiary for expenses reasonably anticipated to be incurred in performance of the duties of such Director or officer so long as such individual would be entitled to be reimbursed for such expenses absent that advance.

## **ARTICLE IX CONFLICTS OF INTEREST**

Section 9.1. **Conflicts of Interest.** The purpose of this conflict of interest policy is to protect the Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or Director of the Corporation or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations. As used in this Article IX, the following terms have the following definitions:

A. **Interested Person.** Any Director, officer, or member of a committee of the Board of Directors, who has a direct or indirect financial interest, as defined below, in a contemplated or completed transaction is an interested person.

B. **Financial Interest.** A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

(i) an ownership or investment interest in any entity with which the Corporation has a transaction or arrangement;

(ii) a compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement; or

(iii) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

C. Compensation. Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. A financial interest is not necessarily a conflict of interest. Under Section 9.2.B, a person who has a financial interest may have a conflict of interest only if the Board of Directors or a committee thereof decides that a conflict of interest exists.

## Section 9.2. Procedures.

A. Duty to Disclose. In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the Board of Directors and members of any committees thereof considering the proposed transaction or arrangement.

B. Determining Whether a Conflict of Interest Exists. After disclosure of the financial interest and all material facts, and after any discussion with the interested person, the interested person shall leave the Board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or committee members, as the case may be, shall decide if a conflict of interest exists.

### C. Procedures for Addressing the Conflict of Interest.

(i) An interested person may make a presentation at the Board or committee meeting, but after the presentation, that person shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

(ii) The chairperson of the Board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

(iii) After exercising due diligence, the Board or committee shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

(iv) If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board or committee shall determine by a majority vote of the disinterested Directors whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

### D. Violations of the Conflicts of Interest Policy.

(i) If the Board or committee has reasonable cause to believe any person has failed to disclose actual or possible conflicts of interest, it shall inform such person of the basis for such belief and afford such person an opportunity to explain the alleged failure to disclose.

(ii) If, after hearing the person's response and after making further investigation as warranted by the circumstances, the Board or committee determines such person failed to disclose an actual or possible conflict of interest, the Board or committee shall take appropriate disciplinary and corrective action.

Section 9.3. **Records of Proceedings.** The minutes of the Board and all committees thereof shall contain:

(i) the names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board's or committee's decision as to whether a conflict of interest in fact existed.

(ii) the names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Section 9.4. **Compensation.**

(i) A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to such committee member's compensation.

(ii) No voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Section 9.5. **Annual Statements.** Each Director, officer and committee member shall sign an annual "Code of Conduct" that, among other things, affirms that such person:

(i) has received a copy of the conflicts of interest policy;

(ii) has read and understands the policy;

(iii) has agreed to comply with the policy; and

(iv) understands the Corporation is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Section 9.6. **Periodic Reviews.** To ensure the Corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

(i) whether compensation arrangements and benefits are reasonable, based on competent survey information, and are the result of arm's length bargaining;

(ii) whether partnerships, joint ventures, and arrangements with management organizations conform to the Corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in private inurement, impermissible private benefit or in an excess benefit transaction.

Section 9.7. **Use of Outside Experts.** When conducting the periodic reviews as provided for in Section 9.6, the Corporation may, but need not, use outside advisors. If outside experts

are used, their use shall not relieve the Board of Directors of its responsibility for ensuring periodic reviews are conducted.

## **ARTICLE X INDEMNIFICATION AND INSURANCE**

Section 10.1. As utilized in this Article, the following terms shall have the meanings indicated:

(i) “Corporation” includes any domestic or foreign predecessor entity of the Corporation in a merger, conversion, consolidation, or other transaction in which the liabilities of the predecessor are transferred or allocated to the Corporation by operation of law and any other transaction in which the Corporation assumes the liabilities of the predecessor but does not specifically exclude liabilities that are the subject matter of this Article.

(ii) “director” means any person who is or was a director of the Corporation and any person who, while a director of the Corporation, is or was serving at the request of the Corporation as a partner, director, officer, venturer, proprietor, trustee, employee, administrator, agent or similar functionary at another foreign or domestic corporation, partnership, limited liability company, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise. A person represents the Corporation at an employee benefit plan if the performance of the person’s official duties to the Corporation also imposes duties on or otherwise involves service by the person to the plan, participants in, or beneficiaries of the plan.

(iii) “expenses” include court costs and reasonable attorney’s fees.

(iv) “official capacity” means (a) when used with respect to a director, the office of director in the Corporation or the exercise of authority by or on behalf of the director under the TBOC or the governing documents of the Corporation, and (b) when used with respect to a person other than a director, the elective or appointive office in the Corporation held by the officer, or the employment or agency relationship undertaken by the employee or agent on behalf of the Corporation; however, notwithstanding any contrary provision of this Section 10.1(iv), “official capacity” as defined in both (a) and (b) above does not include service for any other foreign or domestic corporation or any partnership, limited liability company, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise.

(v) “proceeding” means any threatened, pending, or completed action, suit or other proceeding, whether civil, criminal, administrative, arbitrative, or investigative, any appeal in such an action, suit or proceeding and any inquiry or investigation that could lead to such an action, suit or proceeding.

Section 10.2. The Corporation shall indemnify a director or officer of the Corporation in connection with a proceeding in which he or she is a named defendant or respondent because he or she is or was a director if the director has been wholly successful, on the merits or otherwise, in the defense of the proceeding.

Section 10.3. The Corporation shall indemnify a person who was, is or is threatened to be made a named defendant or respondent in a proceeding because the person is or was a director only if it is determined in accordance with Section 10.7 that, with respect to amounts described in Section 10.6(i) the amounts actually incurred by the person in connection with the proceeding (other than a judgment) are reasonable, and that the person:

(i) conducted himself or herself in good faith;

(ii) reasonably believed (a) in the case of conduct in his or her official capacity as a director of the Corporation, that his or her conduct was in the Corporation's best interests, and (b) in all other cases, that his or her conduct was at least not opposed to the Corporation's best interests; and

(iii) in the case of any criminal proceeding, had no reasonable cause to believe that his or her conduct was unlawful.

This Bylaw provision shall be deemed to be the requisite determination that indemnification should be paid to persons who meet the above standards contemplated in TBOC Section 8.103(c).

Section 10.4. Except as may otherwise be permitted in Section 10.6(ii), a director shall not be indemnified by the Corporation as provided in Section 10.3 for obligations resulting from a proceeding (i) in which the director is found liable on the basis that personal benefit was improperly received by him or her, whether or not the benefit resulted from an action taken in the person's official capacity, or (ii) in which the person is found liable to the Corporation.

Section 10.5. The termination of a proceeding by judgment, order, settlement or conviction or on a plea of nolo contendere or its equivalent is not of itself determinative that the person did not meet the requirements set forth in Section 10.3. A person shall be deemed to have been found liable in respect of any claim, issue, or matter only if the liability is established by an order, including a judgment or decree of a court, and all appeals of the order are exhausted or foreclosed by law.

Section 10.6.

(i) Subject to Section 10.6(i), a person shall be indemnified by the Corporation as provided in Section 10.3 against judgments (including arbitration awards), penalties, settlements, fines, and excise or similar taxes (except as expressly excluded in Section 10.16), including an excise tax assessed against the person with respect to an employee benefit plan, and reasonable expenses actually incurred by the person in connection with the proceeding.

(ii) Notwithstanding any contrary provision of Section 10.6(i), if the person to be indemnified with respect to a proceeding is found liable to the Corporation or is found liable on the basis that personal benefit was improperly received by the person, the indemnification described in Section 10.3 and Section 10.6(i):

(a) is limited to reasonable expenses actually incurred by the person in connection with the proceeding;

(b) shall not include a judgment, a penalty, a fine, and an excise or similar tax, including an excise tax assessed against the person with respect to an employee benefit plan; and

(c) shall may not be made in relation to a proceeding in which the person has been found liable for: (1) willful or intentional misconduct in the performance of the person's duty to the Corporation; (2) breach of the person's duty of loyalty owed to the Corporation; or (3) an act or omission not committed in good faith that constitutes a breach of a duty owed by the person to the Corporation.

Section 10.7. Determination of the permissibility of indemnification under Section 10.3, and the reasonableness of amounts (other than judgments) actually incurred, must be made (a) by a majority vote of directors who at the time of the vote are disinterested and independent, regardless of whether the directors who are disinterested and independent constitute a quorum; (b) by a majority vote of a committee of the Corporation Board, designated to act in the matter by a majority vote of directors who at the time of the vote are disinterested and independent, regardless of whether the directors who are disinterested and independent constitute a quorum, and consisting solely of one or more directors who at the time of the vote are disinterested and independent; or (c) by special legal counsel selected by the Corporation Board or a committee of the Corporation Board by vote as set forth in clause (a) or (b) of this Section 10.7, or, if such a quorum cannot be obtained and such a committee cannot be established, by a majority vote of all directors.

Section 10.8. Notwithstanding any contrary provision of Section 10.7, if the determination that indemnification is permissible is made by special legal counsel described in Section 10.7(c), determination as to reasonableness of expenses must be made by special legal counsel described in Section 10.7(c).

Section 10.9. If, upon application of a director or officer of the Corporation, a court of competent jurisdiction determines, after giving any notice the court considers necessary, that the director or officer is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not he or she has met the requirements set forth in Section 10.3 or has been found liable in the circumstances described in Section 10.4, then in addition to any indemnification otherwise provided in these Bylaws, the Corporation shall indemnify the director or officer to such further extent as the court shall determine that the person is fairly and reasonably entitled in view of all the relevant circumstances, including an award of the expenses incurred in securing the indemnification; but if the person is found liable to the Corporation or is found liable on the basis that personal benefit was improperly received by the person, without regard to whether the benefit resulted from an action taken in the person's official capacity, the indemnification shall in all cases be limited to reasonable amounts described in Section 10.6(i).

Section 10.10. Reasonable expenses incurred by a currently serving director who was, is or is threatened to be made a named defendant or respondent in a proceeding shall be paid or reimbursed by the Corporation in advance of the final disposition of the proceeding and without the determinations specified in Section 10.3 or Section 10.7, after the Corporation receives:

- (i) a written affirmation by the director of the director's good faith belief that he or she has met the standard of conduct necessary for indemnification under this Article; and
- (ii) a written undertaking by or on behalf of the director to repay the amount paid or reimbursed if it is ultimately determined that the director has not met that standard or it is ultimately determined that indemnification of the director against expenses incurred by him or her in connection with that proceeding is prohibited by Section 10.6(ii).

The written undertaking required by Section 10.10(ii) must be an unlimited general obligation of the director, and may but need not be secured. It may be accepted by the Corporation without regard to the director's ability to make repayment.

Section 10.11. Reasonable expenses incurred by a former director, or a current or former officer, employee or agent who was, is or is threatened to be made a named defendant or respondent in a proceeding may be paid or reimbursed by the Corporation in advance of the final disposition of the proceeding on terms the Corporation considers appropriate.

Section 10.12. Notwithstanding any other provision of this Article, the Corporation shall pay or reimburse reasonable expenses incurred by a director in connection with his or her appearance as a witness or other participation in a proceeding relating to the Corporation at a time when the director is not a named defendant or respondent in the proceeding.

Section 10.13. In addition to the required indemnification of officers provided in Section 10.2 and Section 10.9, the Corporation may indemnify, advance and reimburse expenses to an officer, employee or agent of the Corporation to the same extent and in the same manner that it may indemnify, advance and reimburse expenses to directors under this Article, and such a person may seek such indemnification, advancement or reimbursement to the same extent as could a director of the Corporation.

Section 10.14. The Corporation may indemnify and advance expenses to an officer, employee or agent and who is not a director to such further extent, consistent with law, as may be provided by general or specific action of the Corporation Board, contract or as permitted or required by common law.

Section 10.15.

(i) The Corporation may purchase or procure, or establish and maintain insurance or another arrangement to indemnify or hold harmless any person who is or was a director, officer, employee or agent of the Corporation or who is or was serving at the request of the Corporation as a director, officer, partner, manager, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, limited liability company, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise, against any liability asserted against him or her and incurred by him or her in such a capacity or arising out of his or her status as such a person, whether or not the Corporation would have the power to indemnify the person against that liability under other provisions of this Article. This Bylaw provision shall be deemed to be the requisite approval for such insurance contemplated in TBOC Section 8.151(c).

(ii) Without limiting the power of the Corporation to purchase or procure, or establish and maintain any kind of other arrangement, the Corporation may, for the benefit of persons described in Section 10.15(i): (a) create a trust fund; (b) establish any form of self-insurance, including a contract to indemnify; (c) secure its indemnity obligation by grant of a security interest or other lien on the assets of the Corporation; or (d) establish a letter of credit, guaranty or surety arrangement.

(iii) The insurance may be purchased or procured or established and maintained with any insurer, or another arrangement may be procured, maintained or established within the Corporation or with any insurer or other person deemed appropriate by the Corporation Board, regardless of whether all or part of the stock, securities or other ownership interest in the insurer or other person is owned in whole or part by the Corporation. In the absence of actual fraud, the judgment of the Corporation Board as to the terms and conditions of the insurance or other arrangement and the identity of the insurer or other person participating in an arrangement shall be conclusive, and the insurance or arrangement shall not be voidable and shall not subject the directors approving the insurance or arrangement to liability, on any ground, regardless of whether directors participating in the approval are beneficiaries of the insurance or arrangement.

Section 10.16. The coverage of any liability insurance purchased by the Corporation pursuant to Section 10.15 may include coverage for the indemnifiable expenses described elsewhere in this Article IX, as well as judgments, fines, settlements, penalties, taxes and expenses of correction, including, if the Corporation is ever considered a private foundation, such expenses as may be related to



taxes, penalties and expenses of correction imposed under Chapter 42 of the Code. However, if the Corporation is ever considered a private foundation, and coverage for judgments, fines, settlements, penalties, taxes and expenses of correction is included in any liability insurance so purchased by the Corporation, the Corporation shall request the insurance carrier from whom such insurance is purchased to furnish the Corporation with the portion of any insurance premium payable that is attributable to such coverage of a foundation manager's expenses for (i) any penalty, tax (including a tax imposed by chapter 42 of the Code), or expense of correction, (ii) any expense not reasonably incurred by such a manager in connection with a civil judicial or civil administrative proceeding arising out of such manager's performance of services on behalf of the Corporation, or (iii) any expense resulting from an act or failure to act with respect to which such manager has acted willfully and without reasonable cause. That portion of such premium as is so designated by the insurance carrier shall be allocated pro rata among the directors, officers and employees of the Corporation, as well as any other party actually included within such coverage pursuant to the provisions of Section 10.15, and included, where applicable, in the compensation paid to each such director, officer, employee or other party by the Corporation, all as described in Treas. Reg. § 53.4941(d)-2(f).

Section 10.17. No purchase of insurance, indemnification or other action contemplated or allowed by this Article shall be construed to allow or permit any such purchase, indemnification or action, except as such is within any limitations placed on the Corporation as a tax exempt organization under the provisions of the Code, the TBOC or other laws of the State of Texas, or any other applicable rule or regulation.

Section 10.18. If the Corporation ever has members, the Corporation Board shall report to the members in writing regarding any indemnification or advance of expenses made pursuant to this Article IX. Any such report must be made with or before the notice or waiver of notice of the next meeting of the members and before the next submission to the members of any consent to action without meeting, provided in all events such report must be made not later than the first anniversary date of the indemnification or advance.

## ARTICLE XI GRANTS ADMINISTRATION

Section 11.1. **Purpose of Grants.** The Corporation shall have the power to make grants and contributions and to render other financial assistance for the purposes expressed in the Certificate of Formation and these Bylaws.

Section 11.2. **Board of Directors Oversight.** The Board of Directors shall exercise itself, or delegate, subject to its supervision, control over grants, contributions, and other financial assistance provided by the Corporation. The Board shall approve a process for reviewing and approving or declining all requests for funds made to the Corporation, which shall require such requests to specify the use to which the funds will be put, and include a mechanism for regular Board review of all grants made. The Board shall similarly approve a process for authorizing payment of duly approved grants to the approved grantee.

Section 11.3. **Refusal and Withdrawal.** The Board of Directors, in its absolute discretion, shall have the right to refuse to make any grants or contributions, or to render other financial assistance, for any or all of the purposes for which the funds are requested. In addition, the Board, in its absolute discretion, shall have the right to withdraw its approval of any grant at any time and use the funds for other purposes within the scope of the purposes expressed in the Certificate of Formation, subject to any rights of third parties under any contract relating to such grant.

Section 11.4. **Accounting.** The Board of Directors shall determine under what circumstances to require that grantees furnish a periodic accounting to show that the funds granted by the Corporation were expended for the purposes that were approved by the Board.

Section 11.5. **Restrictions on Contributions.** Unless otherwise determined by resolution of the Board of Directors in particular cases, the Corporation shall retain complete control and discretion over the use of all contributions it receives, and all contributions received by the Corporation from solicitations for specific grants shall be regarded as for the use of the Corporation and not for any particular organization or individual mentioned in the solicitation. The Corporation may accept contributions earmarked by the donor exclusively for allocation to one or more foreign organizations or individuals only if the Board of Directors of the Corporation has approved in advance the charitable activity for which the donation was made.

## **ARTICLE XII ELECTRONIC TRANSMISSION**

Section 12.1. **Consent to Electronic Transmission.** Any Chapter President or Director may consent to the delivery of any written consent, solicitation of proxy or notice of the date, time, place and purpose, as applicable, of any regular or special meeting of the Chapter President or the Board of Directors by Electronic Transmission (as defined below), and such Chapter President or Director, as applicable, may specify the form of Electronic Transmission to be used to communicate the same. As used herein, the term “*Electronic Transmission*” means a form of communication that: (A) does not involve the physical transmission of paper; (B) creates a record that may be retained, retrieved and reviewed by the recipient; and (C) may be directly reproduced in paper form by the recipient through the automated process. An affidavit of the Secretary or other agent of the Corporation that notice has been given by Electronic Transmission is, in the absence of fraud, prima facie evidence that notice was given.

Section 12.2. **Revocation of Consent.** Any Chapter President or Director may revoke such consent by written notice to the Corporation. The consent of a Chapter President or a Director, as applicable, is deemed to be revoked if the Corporation is unable to deliver by Electronic Transmission two consecutive written consents, or solicitations for proxy or notices, as applicable, and the Secretary, or another person responsible for delivering written consents, or solicitations for proxy or notices on behalf of the Corporation knows that delivery of such consecutive Electronic Transmissions was unsuccessful. The inadvertent failure to treat the unsuccessful transmissions as a revocation of consent shall not invalidate a meeting or other action.

Section 12.3. **Effectiveness of Electronic Transmission.** Any written consent, solicitation for proxy or notice given by Electronic Transmission shall be deemed to be given when: (A) transmitted to a facsimile number provided by the applicable Chapter President or Director for the purpose of receiving notice; (B) transmitted to an electronic mail address provided by the applicable Chapter President or Director for the purpose of receiving notice; (C) posted on an electronic network with an additional message of such notice transmitted to the address previously provided by the applicable Chapter President or Director for the purpose of alerting the Chapter President or Director of the posting; or (D) communicated to the Chapter President or Director by any other form of Electronic Transmission consented to by such Chapter President or Director.

## **ARTICLE XIII MISCELLANEOUS**

Section 13.1. **Fiscal Year.** The fiscal year of the Corporation shall be as determined by resolution of the Board of Directors.

Section 13.2. **Contracts Notes and Checks.** All contracts in excess of \$100,000, or series of contracts which are in the aggregate in excess of \$100,000, entered into on behalf of the Corporation must be authorized by the Board of Directors, or the committee, person or persons on whom such power may be conferred by the Board from time to time, and, except as otherwise provided by law, every check, draft, promissory note, money order, or other evidence of indebtedness of the Corporation shall be signed by the person or persons on whom such power may be conferred by the Board from time to time.

Section 13.3. **Annual Reports to Directors.** The Chair or the CEO shall furnish an annual written report to all directors of the Corporation containing the following information:

(i) the assets and liabilities, including the trust funds of the Corporation, as of the end of the fiscal year;

(ii) the principal changes in assets and liabilities, including trust funds, during the fiscal year;

(iii) the revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the fiscal year;

(iv) the expenses or disbursements of the Corporation, for both general and restricted purposes, for the fiscal year; and

(v) any transaction during the previous fiscal year involving more than \$50,000 between the Corporation (or its parent or subsidiaries, if any) and any of its directors or officers (or the directors or officers of its parent or subsidiaries, if any) or any holder of more than ten percent of the voting power of the Corporation or its parent or subsidiaries, if any, or any of a number of such transactions in which the same person had a direct or indirect material financial interest, and which transactions in the aggregate involved more than \$50,000, as well as the amount and circumstances of any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any director or officer of the Corporation. For each transaction, the report must disclose the names of the interested persons involved in such transaction, stating such person's relationship to the Corporation, the nature of such person's interest in the transaction and, where practicable, the value of such interest.

The foregoing report shall be accompanied by any report thereon of independent accountants or, if there is no such report, the certificate of an authorized officer of the Corporation that such statements were prepared without an audit from the books and records of the Corporation. The report and any accompanying material may be sent by Electronic Transmission.

Section 13.4. **Required Financial Audits.** The Corporation shall obtain a financial audit for any tax year in which it receives or accrues gross revenue of \$2 million or more, excluding grant or contract income from any governmental entity for which the governmental entity requires an accounting.

Section 13.5. **Amendments.** Proposed amendments to these Bylaws shall be submitted in writing to the Directors at least one week in advance of any Board meeting at which they will be considered for adoption. The affirmative vote, or written consent, of two-thirds of the Directors then in office shall be required to adopt a bylaw amendment.

Section 13.6. **Governing Law.** The place of these Bylaws, their status and their forum, shall be at all times in the State of Texas; and these Bylaws shall be governed by the Laws of the

State of Texas as to all matters relating to their validity, construction and interpretation. In the event that any court of competent jurisdiction shall adjudge to be invalid or unlawful any clause, sentence, paragraph, subsection, section or article of these Bylaws, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of these Bylaws, or any other provision hereof, but the effect of such judgment or decree shall be confined to the clause, sentence, paragraph, subsection, section or article so adjudged to be invalid or unlawful.