

arts

Mid-Hudson

together we create

By-Laws

Last amended by the membership _____, 2022

ARTICLE I

NAME

The corporation shall be known as Arts Mid-Hudson, Inc. (hereinafter “Arts Mid-Hudson” or the “Corporation”).

ARTICLE II: PURPOSE

Arts Mid-Hudson is a private, nonprofit arts service organization which is tax-exempt under IRS section 501 (c) (3). Arts Mid-Hudson takes a leadership role in maximizing the benefits of the arts in the Hudson Valley, and in establishing the region as one of the premier locations for high quality cultural activities in New York State. The mission of Arts Mid-Hudson is to provide vision and leadership to support thriving and diverse arts in the Mid-Hudson Valley. Arts Mid-Hudson’s programs and services focus on two complementary goals:

(a) To strengthen and support the artistic, administrative, marketing and cooperative capabilities of cultural organizations and individual artists;

(b) To represent the cultural community and integrate its efforts with other segments of the community, including business, tourism, government, schools, human services, recreation and media.

ARTICLE III: MEMBERSHIP

SECTION 1

INDIVIDUAL MEMBERS

Any individual interested in the activities of Arts Mid-Hudson may become a member, as per information posted on the Arts Mid-Hudson website and on file at the Arts Mid-Hudson offices. Individual members have voting rights as set forth in these By-Laws.

ARTICLE III: MEMBERSHIP

SECTION 2

ORGANIZATIONAL MEMBERS

Any organization interested in the activities of Arts Mid-Hudson may become a member. Only one person representing an organizational member may vote on any issue. The corporate member representative has voting rights as set forth in these By-Laws.

ARTICLE III: MEMBERSHIP

SECTION 3

HONORARY MEMBERS

An Honorary Member may be elected by a unanimous vote of the directors at a duly-organized meeting.

An Honorary Member shall enjoy all the benefits of individual membership for a one-year period starting at the date of election.

ARTICLE III: MEMBERSHIP

SECTION 4

MEMBERS IN GOOD STANDING

Members in good standing are those who have paid their dues and the membership period has not expired.

ARTICLE III: MEMBERSHIP

SECTION 5

TERMINATION OF MEMBERSHIP BY THE MEMBERSHIP

Termination of Membership by the Members themselves, shall be authorized, with or without cause, by majority vote of the Membership at the Annual Meeting or a Special Meeting of the Membership called for that purpose.

ARTICLE III: MEMBERSHIP

SECTION 6

TERMINATION OF MEMBERS BY THE BOARD OF DIRECTORS

Termination of Membership by the Board of Directors shall be authorized, for cause, by majority vote of the Board at any Regular or Special Meeting of the Board called for that purpose. For purposes of this Section, failure to timely remit required dues, if any, shall be considered sufficient cause for termination of Membership by vote of the Board.

ARTICLE IV: DUES AND EVIDENCE OF MEMBERSHIP

SECTION 1

ORGANIZATIONAL AND INDIVIDUAL MEMBERSHIP DUES

Dues for organizational and individual members shall be paid annually. The amount and schedule of dues payments will be reviewed periodically by the Development Committee. The Development Committee will make a recommendation to the full board and the board will vote to enact amounts and schedules. Payment amounts will be posted on the organization's website.

ARTICLE IV: DUES AND EVIDENCE OF MEMBERSHIP

SECTION 2

EVIDENCE OF MEMBERSHIP

Each Member shall be issued appropriate evidence or proof of Membership, which is not be transferable.

ARTICLE V: MEETINGS

SECTION 1

ANNUAL MEMBERSHIP MEETING

An Annual meeting of the Members entitled to vote shall be held annually in January be held for purposes of the election of Directors, the presentation of Board Officers, receiving the annual report and the transaction of any other business of the Corporation.

ARTICLE V: MEETINGS

SECTION 2

SPECIAL MEETINGS

Special Meetings of the Members entitled to vote may be called at any time by a majority vote of the Board of Directors, or upon the written request of at least ten percent (10%) percent of the Members entitled to vote. No business shall be conducted at a Special Meeting that is not included in the issued Notice as stipulated herein.

ARTICLE V: MEETINGS

SECTION 3

VOTING

At any, duly called Meeting of the Membership, the lessor of ten percent (10%) or one-hundred (100) eligible Members entitled to vote, present as a consequence of physical attendance and/or use of telephone/video-conference technology and/or use of a proxy shall constitute a quorum. When a quorum is once present to organize a meeting, it is not broken by the subsequent withdrawal of any Member(s).

ARTICLE V: MEETINGS

SECTION 4

MEETING NOTICE

Notice Requirements. The Board Secretary shall provide notice to each Member entitled to vote prior to each Meeting of Membership, stating the place, date and hour of the Meeting. Notice of a Special Meeting shall, in addition, identify:

- i. the person, or persons, calling the meeting; and,
- ii. the purpose, or purposes, for which said meeting is being called.

Written Notification. Unless the Corporation has over five hundred (500) Members, written notice of any Meeting of the Membership shall be given personally or by first class mail, facsimile or by electronic mail, not less than ten (10) nor more than fifty (50) days before the date of the Meeting. Notice shall be deemed given as stipulated below:

- i. if personally, upon receipt by the Member;
- ii. if mailed, when deposited in the United States Mail, with postage prepaid, directed to the Member at the Member's current address of record as it appears on the list of Members; or,
- iii. if sent by electronic mail or facsimile, when forwarded to the facsimile number, or electronic mail address, as either appear on the list of Members, excepting that any such notice shall not be considered properly delivered if the Corporation is:
 - (a) unable to deliver two (2)-consecutive notices to the designated electronic mail address or facsimile number or,
 - (b) is otherwise made aware that notice cannot be delivered to the Member or electronic mail or facsimile.

Notification by Publication. Provided the Corporation has more than five hundred (500) Members, notice of Meetings of the Membership may be given by publication. Any such notice shall be:

- i. published in a newspaper published in the County in which the principal office of the Corporation is located once a week for 3-successive weeks immediately preceding the Meeting; and,
- ii. prominently posted on the homepage of the Corporation's website continuously from the date of newspaper publication through the date of the Meeting.

Waiver of Notice. Should any Member fail to receive proper notice of a Meeting of the Membership, as otherwise required by these By-Laws, the Member shall waive his/her right to any such notice if:

- i. the Member attends the Meeting of the Membership without objection to the lack of proper notice, prior to said Meeting being called to order; or,
- ii. either before or after the Meeting, the Member submits, a waiver of notice, which if tendered personally, in writing or by facsimile, shall be validated by written or electronic signature; or if

submitted by electronic mail, shall include information from which the Corporation can reasonably determine that the waiver was properly authorized.

ARTICLE V: MEETINGS

SECTION 5

ACTION BY THE MEMBERSHIP

Action Defined. Except as otherwise provided by statute and/or these By-Laws, an “act,” or “action,” of the Membership shall mean an action at a Meeting of the Membership authorized by vote of a majority of the Members present at the time of the vote, provided a sufficient quorum is present.

Electronic Communication. Any, or all, Members may participate in any Meetings of the Membership, by means of a conference telephone, electronic video screen communication or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting of the Membership.

Proxies. Every Member entitled to vote at a Meeting of the Membership may authorize another person, or persons, to act on his/her behalf by use of proxy. To be valid and enforceable, each proxy must be submitted before, or presented at, the Meeting of the Membership for which it is intended. If tendered personally, in writing or by facsimile, the proxy shall be validated by written or electronic signature. If submitted by electronic mail, it shall include information from which the Corporation can reasonably determine that the proxy was properly authorized. No proxy shall be valid after the expiration of eleven (11) months from the date thereof, unless otherwise provided by proxy. Every proxy shall be revocable at the pleasure of the Member executing same, except as may otherwise be provided by law.

Action by Members on Unanimous Written Consent. Any act, or action, required or permitted to be taken by the Membership may be taken without a Meeting if each voting member submits to the Secretary, or his/her designee, a written consent, delivered personally or by regular mail, facsimile and/or electronic mail, authorizing a resolution to permit the action. A copy of the resolution, and all written consents thereto, shall be filed with the minutes of the proceedings of the Membership.

Reports. In a manner sufficient to comply with applicable statutory obligations, the Board of Directors shall annually present to the Membership a report, verified by appropriate Officers, or certified by an Independent Auditor, if so required, outlining, in appropriate detail, the Corporation’s fiscal status, including an annual balance sheet and profit and loss statement or a financial statement performing a similar function, for the preceding fiscal year, confirming assets (restricted and unrestricted) and liabilities, revenues and receipts and expenses and disbursements, together with any, and all necessary and/or required supporting documentation. Each such report shall be filed with the records of the Corporation and a copy, or an abstract thereof, shall be entered in the minutes of the proceedings of the Meeting of the Members at which the report is presented.

ARTICLE VI: BOARD OF DIRECTORS

SECTION 1

Board of Directors Composition

There shall be a Board of Directors of not fewer than 5 nor more than 25 people to be responsible for any properties, to conduct the business and to direct the policies of Arts Mid-Hudson.

The membership of the Board of Directors shall consist of persons with expertise in various business and professional fields and persons experienced or knowledgeable in the arts.

Attempts will be made to include representatives of geographically diverse areas of the region and various disciplines of the arts on the Board of Directors.

Board members shall remain in good standing during their terms of service by also being individual members and keeping up to date with membership dues. Paid staff members of Arts Mid-Hudson shall not serve on the Board of Directors.

ARTICLE VI: BOARD OF DIRECTORS

SECTION 2

DUTIES

The Board of Directors shall: establish policies, budgets, and procedures for Arts Mid-Hudson; establish the times and places for meetings of the full membership; approve formation of Board of Directors committees, review monthly reports from the treasurer; arrange for an independent annual audit of Arts Mid-Hudson accounts, if required; employ the Executive Director who shall manage, on a day to day basis, the activities of Arts Mid-Hudson, working within policies, budgets and procedures established by the Board of Directors; and plan and execute such other appropriate measures to best promote the purposes of the Arts Mid-Hudson.

ARTICLE VI: BOARD OF DIRECTORS

SECTION 3

TERM

The term of office for members of the Board of Directors shall become effective upon their election during the Annual Meeting of the Membership and shall be for three years; that is, until the Annual Meeting held three years hence. One third of the Board of Directors shall be elected each year. A director may not serve more than two consecutive terms. A former director may be re-elected after a one year's absence from the board. A person elected to fill an unexpired term of less than one year may be elected thereafter for two (2) three-year terms.

ARTICLE VI: BOARD OF DIRECTORS

SECTION 4

NOMINATION TO BOARD OF DIRECTORS

Each year the Governance Committee will be responsible for presenting a slate of candidates to the Board of Directors for approval before a member vote at the Annual Meeting of the Membership.

The Governance Committee will share a call for nominations to members no later than 90 days before the Annual Meeting of the Membership asking for nominations and specifying the number of open board positions.

The Governance Committee will vet all nominees, discuss with potential candidates the nature of the commitment, and finally determine a slate of candidates.

The Board of Directors will vote on the slate of candidates no later than 30 days before the Annual Meeting. When a slate of candidates is approved by the board, those candidates will be presented to the members in good standing at the Annual Meeting of the Membership for their vote.

ARTICLE VI: BOARD OF DIRECTORS

SECTION 5

ELECTION

Individuals will be elected to the Board of Directors will be elected at the Annual Meeting of the Membership by the Arts Mid-Hudson membership from a slate presented by the Board. The proposed slate will be publicized to the membership in accordance with the notice requirements set forth under Article 4.

ARTICLE VI: BOARD OF DIRECTORS

SECTION 6

BOARD OF DIRECTORS MEETINGS

Annual Meetings. The Board of Directors, by yearly resolution of the Board, shall as soon as practicable after the Annual Meeting of the Membership, convene an Annual Meeting of the Board of Directors for the purpose of appointing Officers of the Corporation. Reasonable advance notice of the Annual Meeting of the Board of Directors, including time, date and location, shall be given by means of establishing a customary Meeting date, publishing the date of the meeting on the website of the Corporation, regular mail, facsimile, electronic communication, telephone and/or personal delivery.

Regular meetings of the Board of Directors shall be held at times and places as may be determined by the consensus of the Board of Directors, but not fewer than six (6) times per year, with a minimum of four (4) being face-to-face meetings. Notice shall be given to each Board member at least ten (10) days before the date of the meeting.

Special meetings may be called at the discretion of the Board Chair and shall set forth the purpose of the Special meeting. Arts Mid-Hudson's Executive Director attends all Board of Directors meetings as an ex-officio (non-voting) participant.

Waivers of Notice. Notice of any meeting of the Board of Directors need not be given to any Director who submits a signed waiver of notice, by regular mail, electronic mail, facsimile or personal delivery, to the Board, the Chair or the Secretary, either before or after the meeting, or who attends the meeting without protesting prior to formal commencement, the lack of formal notice.

Quorum. A quorum shall be required for the legal and proper conduct of the business of the Board of Directors. A majority of the Entire Board shall constitute a quorum for the transaction of any business. When a quorum is once present to organize a meeting, it is not broken by the subsequent withdrawal of any Directors.

Action by the Board of Directors.

Action Defined. Except as otherwise provided by statute and/or these By-Laws, an "act," or "action," of the Board of Directors shall mean an action at a Meeting of the Board authorized by vote of a majority of the Directors present at the time of the vote, provided a sufficient quorum is present.

Written Unanimous Consent. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting if the Entire Board submits to the Secretary of the Corporation, or his/her designee, a written consent, delivered by regular mail, facsimile and/or electronic mail, authorizing a

resolution to permit the action. A copy of the resolution, and all written consents thereto, shall be filed with the minutes of the proceedings of the Board.

Electronic Communication. Any, or all, Director(s), or committee member(s), may participate in any meetings of the Board of Directors, by means of a conference telephone, electronic video screen communication or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting of the Board.

Presumption of Concurrence.

Meeting Participation. A Director who participates in a meeting of the Board of Directors at which an act, or action, on any corporate matter is taken shall be presumed to have concurred to the action taken unless said Director:

- i. assures that his/her dissent is entered in the minutes of the meeting;
- ii. files a written dissent to such act or action with the Secretary of the meeting before the adjournment thereof, or;
- iii. forwards a written dissent, by regular mail, facsimile, electronic communication or personal delivery, to the Secretary, immediately after the adjournment of the meeting.

Meeting Absence. A Director who is absent from a meeting of the Board at which an act, or action, on any corporate matter is taken shall be presumed to have concurred to the action taken unless said Director:

- i. forwards a written dissent, by personal delivery and/or registered mail, to the Secretary; or personally delivers, or sends by registered mail, his/her written dissent thereto to the Secretary; or
- ii. assures that his/her dissent is entered in the minutes of the meetings of the Board within a reasonable time after learning of such action.

ARTICLE VI: BOARD OF DIRECTORS

SECTION 8

RESIGNATIONS

Any resignation from the Board of Directors shall be in writing and shall be sent to the Board Chair.

ARTICLE VI: BOARD OF DIRECTORS

SECTION 9

VACANCIES

In case of any vacancy occurring on the Board of Directors, a successor to fill the unexpired term may be elected by a majority of the remaining directors. The Governance Committee shall make recommendations for candidates to fill such vacancies.

ARTICLE VI: BOARD OF DIRECTORS

SECTION 10

BOARD OF DIRECTORS QUORUM

A quorum of the Board of Directors shall occur when a majority of the entire Board Directors are present.

ARTICLE VI: BOARD OF DIRECTORS

SECTION 11

Removal

Any Director(s) may be removed, with or without, cause, by a majority vote of the Board of Directors at any Annual Meeting, Regular Meeting or Special Meeting of the Board called for that purpose. A decision to remove a Director may temporarily restrict or permanently prohibit the Director in question from being reelected to the Board, at the sole, and exclusive, discretion of the then-seated Board of Directors. Prior to any Meeting where a vote is to be taken to remove a Director, the Director in question, and all other Directors, shall receive specific notice of said anticipated action in a manner sufficient to comply with all other requirements of this Article. At any meeting where a vote is to be taken to remove a Director, the Director in question shall be entitled to attend and afforded a reasonable opportunity argue in his/her defense.

ARTICLE VII: OFFICERS OF THE ARTS MID-HUDSON BOARD OF DIRECTORS

SECTION 1

NUMBER OF OFFICERS

The officers of the Arts Mid-Hudson Board of Directors shall be the Board Chair, Board Vice-Chair, Treasurer, Secretary, Governance Committee Chair, Development Committee Chair, and At Large.

ARTICLE VII: OFFICERS OF THE ARTS MID-HUDSON BOARD OF DIRECTORS

SECTION 2

APPOINTMENT OF OFFICERS

At the board meeting immediately following the Membership and Board Annual Meetings, Officers of the Board shall be elected by their peers on the Board of Directors.

ARTICLE VII: OFFICERS OF THE ARTS MID-HUDSON BOARD OF DIRECTORS

SECTION 3

TERM OF OFFICER POSITIONS

- a) The term of office for each officer of the Board shall be two (2) years.
- b) The term of officers shall commence as soon as the appointment is made. Each term shall end at the second Annual Meeting of the Board after the appointment.

ARTICLE VII: OFFICERS OF THE ARTS MID-HUDSON BOARD OF DIRECTORS

SECTION 4

VACANCY OF OFFICER POSITIONS

Should vacancies occur, the Board Chair shall be empowered to appoint a director to any vacant office until the next appointment for that officer position.

ARTICLE VII: OFFICERS OF THE ARTS MID-HUDSON BOARD OF DIRECTORS

SECTION 5

DUTIES OF OFFICERS

The duties and powers of the officers of the Board of Directors shall be as follows:

1) Board Chair: The Board Chair is the chief elected officer of the corporation, presides over the Executive Committee and Board meetings and oversees all Board of Director committees. The chairpersons of all Board of Director committees as well as the officers report directly to the Board Chair. The Chair works in partnership with the Executive Director to ensure that board resolutions are carried out, to prepare board meeting agendas, and to conduct new board member orientation. The Chair oversees the search for a new Executive Director, coordinates the Executive Director's annual performance evaluation, works with the Governance Committee to recruit new board members, and periodically consults with board members on their roles and helps them assess their performance.

2) Board Vice-Chair. This officer carries out special assignments as requested by the Chair, performs the duties of the Chair in the Chair's absence from Executive Committee and Board meetings, and participates as a vital part of the board leadership.

3) Treasurer: This officer understands financial accounting for nonprofit organizations and serves as the Chair of the Finance Committee and coordinates the work of the Audit Committee. With the Finance Committee, the Treasurer manages the board's review of and actions related to the board's financial responsibilities. The Treasurer works with the Executive Director and Finance Manager to ensure that appropriate financial reports are made available to the board on a timely basis; presents the annual budget to the board for approval; and reviews the annual audit. The Treasurer shall preside over Board and Executive Committee meetings in absence of the Board Chair, Vice-Chair and Secretary.

4) Corporate Secretary: This officer shall record the proceedings of all meetings of the Executive Committee and the Board. The Secretary shall work with the office staff to make minutes accessible to Board members in a timely manner, to ensure the safety and accuracy of all board records and to provide notice to the members of all membership meetings.

The secretary will ensure that that bylaws and board policies and procedures manual are updated and that important information is on the website. The secretary will also be able to produce an accurate list of members in good standing. The Secretary will assume responsibilities of the Chair in the absence of the Board Chair and Vice Chair.

ARTICLE VII: COMMITTEES

Section 1. Committee Types & General Authority & Responsibilities. The Board of Directors may charge committees to perform various functions on behalf of the Corporation in either of the two (2) available types: Committees of the Board and Committees of the Corporation. Each Committee of the Board and Committee of the Corporation, and every member thereof, shall serve at the pleasure of the Board. All Committees shall keep minutes of all proceedings, to be regularly submitted to the Secretary for subsequent distribution to the Entire Board, and report to the Board, at its next scheduled Regular Meeting, all activities and determinations.

Section 2. Committees of the Board. Committees of the Board of Directors shall be comprised solely of, at least, three (3) voting Directors elected by majority vote of the Entire Board and shall have either standing authority and/or may be designated specific authority from time-to-time by the Board to take action within statutory limitations that would legally bind the Board and/or the Corporation. No Committee of the Board shall have such the authority in the following matters:

- i. submission to Members, if any, of any act, or action, requiring Members approval by statute and/or these By-Laws;
- ii. filling of vacancies on the Board, or in any of its various Committees;
- iii. fixing of compensation for Directors, or members of its various Committees;
- iv. authorization of any form of Fundamental Corporate Change, as set forth in these By-Laws, including, but not limited amendment, or repeal, of these By-Laws or the adoption of new By-Laws; and/or,
- v. amendment, or repeal, of any resolutions of the Board, which by its terms, shall not be capable of amendment or repeal.

The Board shall appoint, at least, three (3), Directors and/or to serve on the following standing Committees of the Board: Executive, Audit, and Finance. The Board, by resolution adopted by the majority of the Entire Board, may designate additional standing Committees of the Board, with such authority as the applicable resolution shall provide.

Section 3. Committees of the Corporation. Committees of the Corporation shall be comprised of, at least, three (3) individuals elected by majority vote of the Entire Board and shall either have standing authority or may be designated specific authority from time-to-time by the Board. Committees of the Corporation are advisory in nature and cannot under any circumstances take actions that bind the Board and/or the Corporation.

Section 4. Qualifications. The Board of Directors may establish or waive qualifications for committee membership at its discretion.

Section 5. Meetings. Meetings of committees, of which no formal notice shall be necessary, shall be held at such time and place as may be fixed by the Board Chair or the Chair of the applicable Committee or by majority vote of the members of the committee.

Section 6. Quorum and Manner of Acting. Unless otherwise provided by resolution of the Board of Directors, a majority of all of the members of a committee shall constitute a quorum for the transaction of business and the vote of a majority of all of the members of the committee shall be the act of the committee. The procedures and manner of acting of all committees shall be subject at all times to the direction of the Board. All committees shall maintain appropriate minutes of their meetings in an effort to document proper and appropriate oversight.

Section 7. Committees of the Board.

7.1. Executive Committee. The Executive Committee shall be comprised of the elected Officers of the Corporation, Chair, Vice-Chair, Secretary and Treasurer; and, any additional members of the Board of Directors that may be appointed to serve on the Committee from time-to-time. The Chair shall serve as the Chair of the Executive Committee. The Executive Committee shall maintain surveillance of the operations and affairs of the Corporation and shall be empowered to transact only such business as may be necessary between Regular Meetings of the Board of Directors, unless otherwise authorized by the Board. Meetings of the Committee may be called by the Chair or by any three (3)-members of the Committee.

7.2. Audit & Finance Committees. The Audit and Finance Committees shall each be comprised of, at least, three (3) Directors, found by resolution of the Board of Directors to be "Independent Directors" (as

defined by Attachment “A”); however, under no circumstances shall the Corporation’s “Independent Auditor” (as defined by Attachment “A”) or a partner, employee of business associate or “Relative” (as defined by Attachment “A”) of the Independent Auditor’s firm to serve on the Audit Committee. Provided the Treasurer is found to be an “Independent Director,” he/she shall serve on the Finance Committee. The Audit Committee shall be responsible for overseeing all audits of the Corporation. The Finance Committee shall be responsible for the overall fiscal affairs of the Corporation. The Finance Committee shall also develop a budget for approval by the Board of Directors; propose policies governing the finances of the Corporation for adoption by the Board; and, endeavor to assure that all the Corporation’s institutional funds are deposited, invested and withdrawn in a manner consistent with all applicable statutes, regulations and contractual obligations, if any. With regard to responsibilities relative to conflicts of interest, whistleblower protection and auditing oversight, as appropriate, the Audit Committee shall be responsible for strict adherence to, and enforcement of, the Corporation’s Board of Directors Conflicts of Interest Policy, Whistleblower Protection Policy and Audit Oversight Policy, which are annexed to these By-Laws as Attachments “B” “D” and “E,” respectively. It shall also assure that proper policies and procedures are in place to ensure that all newly-received and annually-submitted Conflict of Interest Disclosure Statements, an unexecuted copy of which is annexed to these By-Laws as Attachment “C,” and any case-specific Related Party Transaction reports, together the minutes of any related meetings, are promptly provided to the Chair of the Committee and shall subsequently see to it that they are properly considered for auditing purposes.

Section 8. Committees of the Corporation.

8.1. Nominations Committee. The Nominations Committee is responsible for:

- a. preparing a slate of nominations for the positions of Officers to be presented at the Annual Meeting of the Board of Directors for their vote; and
- b. Recommend individuals of the membership to fill vacancies occurring on the Board of Directors.

8.2 Governance Committee

8.3 Development Committee

The Board of Directors may assemble additional standing or ad hoc committees when appropriate, in accordance with protocols in the Procedures Manual. These committees will generate regular reports, as outlined in the Procedures Manual.

ARTICLE VIII: BOARD OF DIRECTORS COMMITTEES

SECTION 1

GENERAL RESPONSIBILITIES OF COMMITTEE CHAIRS

Each committee chair shall direct the work of his/her committee, report to the Board on a regular basis as specified in the Procedures manual, and prepare an annual operating plan and an annual report for presentation in the Annual Report.

ARTICLE IX: FISCAL POLICIES

SECTION 1

FISCAL YEAR

The fiscal year shall be from January 1 through December 31.

SECTION 2

INDEPENDENT FINANCIAL AUDIT

If required pursuant to stipulated statutory thresholds dictated by revenue annually received and/or other applicable regulation and/or contractual obligation, demanded by the Office of the Attorney General, requested by another regulatory agency or funder as a condition of funding, or otherwise recommended and authorized by the Board of Directors, the accounts of the Corporation shall be subject to an annual audit report or audit review report prepared by "Independent Auditor" (as defined by Appendix "A"), and conducted in a manner compliant with all applicable statutory, regulatory and contractual obligations, to be overseen solely by "Independent Directors" (as defined by Appendix "A") serving on either the Board of Directors, or an authorized Committee of the Board.

ARTICLE X: ELECTED OFFICER AND DIRECTOR COMPENSATION, REIMBURSEMENT AND LOANS

Section 1. Compensation. No elected Director, Officer or member of a committee shall receive compensation for his/her services as a Director, Officer and/or member of a committee, but if properly authorized, may permissibly receive other compensation for services that may be rendered to the Corporation, provided any such compensation is awarded pursuant to all applicable policies and procedures required by statute, regulation and/or these By-Laws. The Board of Directors shall be empowered to provide reasonable compensation, together with reimbursement for reasonably incurred expenses, for offices or positions not afforded voting privileges for purposes, such as a position of Executive Director.

Section 2. Reimbursement. Notwithstanding the mandates of this Article, at the discretion of the Board of Directors, individual Directors, Officers, members of Committees and employees may be reimbursed in an amount determined by the Board for expenses reasonably incurred by them in the performance of their duties on behalf of the Corporation.

Section 3. Loans. No loans shall be made by the Corporation to its Directors, Officers, committee members, or to any other corporation, firm, Corporation or other entity in which one or more of its Directors, Officers or committee members are directors or officers or hold a substantial financial interest, except as may be permitted by statute.

ARTICLE XI: INDEMNIFICATION

Indemnification Obligations. Provided that it first obtains, and subsequently maintains a Directors and Officers (D&O) liability insurance policy with coverage limits deemed reasonably appropriate by qualified professionals, the Corporation shall indemnify its Members, Directors, Officers, employees and volunteers against judgments, fines, amounts paid in settlement and reasonable expenses and costs, including attorney's fees, in connection with any claim asserted against the Member, Director, Officer, employee or volunteer by court action, or otherwise, by reason of the fact that such person was a Director, Officer, employee or volunteer of the Corporation and acting in good-faith for a purpose which such person reasonably believed to be in the best interest of the Corporation, and was not unlawful, unethical or immoral. Any such

indemnification shall be considered, awarded and governed by the terms of a comprehensive Indemnification and Insurance Policy, a copy of which is annexed hereto, and made a part hereof as Appendix “F.”

ARTICLE XII: STATUTORY COMPLIANCE

Section 1. Definitions. Should any term, phrase or understanding relative to any topic addressed in these By-Laws and/or the policies of the Corporation be specifically defined in a document entitled, “By-Law and Corporation Policy Definitions,” a copy of which is annexed hereto, and made a part hereof of these By-Laws as Appendix “A,” the stipulated definition of such term in said document shall govern for purposes of interpreting the By-Laws and/or Corporation policies.

Section 2. Conflicts of Interest & Related Party Transaction Protocols. This Corporation shall adopt, and at all times honor, the terms of a written Conflicts of Interest & Related Party Transaction Policy to assure that its Directors, Officers and Key Employees act in the Corporation’s best interest and comply with applicable statutory, regulatory and ethical requirements. The Conflicts of Interest & Related Party Transaction Policy shall include, at a minimum, the following provisions:

- i. Procedures. Procedures for disclosing, addressing, and documenting Conflicts of Interest and Related Party Transactions to the Board of Directors, or an authorized committee, as appropriate.
- ii. Restrictions. Stipulations that when the Board of Directors, or an authorized committee, as appropriate, is considering a real/potential conflict of interest, the interested party shall not:
 - (a) be present at, or participate in, any deliberations;
 - (b) attempt to influence deliberations; and/or,
 - (c) cast a vote on the matter.
- iii. Definitions. Definitions of circumstances that could constitute a Conflict of Interest and/or Related Party Transaction.
- iv. Documentation. Requirements that the existence and resolution of the conflict and/or transaction be documented in the records of the Corporation, including in the minutes of any meeting at which the conflict was discussed or voted upon; and,
- v. Audit-Related Disclosure. Protocols to assure for the disclosures of all real or potential Conflicts of Interest and/or Related Party Transaction are properly forwarded to the Board of Directors, or another authorized committee, as appropriate, for purposes of audit-related consideration.

Section 3. Conflicts of Interest & Related Party Transaction Conflicts Policy. The Conflicts of Interest and Related Party Transaction Policy of the Corporation required in order to comply with the mandates of Section 2 of this Article is annexed hereto, and made a part hereof as Appendix “B.” This policy may only be amended, modified or repealed by a two-thirds (2/3) majority vote of the Board of Directors present at any Annual Meeting, Regular Meeting or Special Meeting called for that purpose with the change in policy to not be applicable to any pending or currently being reviewed real or potential conflicts of interest or Related Party Transaction.

Section 4. Potential Conflicts Disclosure Statement. The Potential Conflicts Disclosure Statement of the Corporation required in order to comply with the mandates of Section 2 of this Article is annexed hereto, and made a part hereof as Appendix “C.”

Section 5. Whistleblower Protection Protocols. The Corporation shall endeavor to protect any “Member,” “Director,” “Officer,” employee, including any “Key Employee” (each as defined by Appendix “A”) or

volunteer who provides substantial services to the Corporation, from intimidation, bully, harassment, discrimination or other forms of retaliation on the part of the Corporation, or any of its Members, Directors, Officers, employees, including Key Employees, or volunteers, as a consequence of the good-faith filing of a report relative to possible violations of any statute, regulation, applicable ethical standard or policy or procedure of the Corporation. Provided the Corporation has twenty (20) or more employees (full-time, part-time, or a combination thereof) and annual revenue exceeding one million dollars (\$1,000,000), and/or otherwise mandated by other applicable statute, regulation and/or contractual obligation, the Corporation shall adhere to the terms of a written Whistleblower Protection Policy, which, in the absence of such considerations, shall be considered advisable, but not required.

Section 6. Whistleblower Protection Policy. The Whistleblower Protection Policy of the Corporation required in order to comply with the mandates of Section 5 of this Article, is annexed hereto, and made a part hereof as Appendix “D.” This policy may only be amended, modified or repealed by a two-thirds (2/3) majority vote of the Board of Directors present at any Annual Meeting, Regular Meeting or Special Meeting called for that purpose with the change in policy to not be applicable to any threatened, pending or currently being investigated whistleblower claim.

Section 7. Audit Oversight Protocols. Provided the Corporation is required pursuant to stipulated statutory thresholds dictated by revenue annually received and/or other applicable regulation and/or contractual obligation, demanded by the Office of the Attorney General, requested by another regulatory agency or funder as a condition of funding, or otherwise recommended and authorized by the Board of Directors, the accounts of the Corporation shall be subject to an annual audit report or audit review report prepared by “Independent Auditor” (as defined by Appendix “A”) to be overseen by a designated Audit or combined Audit and Finance Committee of the Board (as appropriate), comprised solely of “Independent Directors” (as defined by Appendix “A”). If such an audit report or audit review is commissioned, the Corporation shall adhere to the terms of a written Audit Oversight Policy, which, in the absence of statutory obligation, shall be considered advisable, but not required.

Section 8. Audit Oversight Policy. The Audit Oversight Policy required in order to comply with the mandates of Section 7 of this Article is annexed hereto, and made a part hereof as Appendix “E.” This policy may only be amended, modified or repealed by a two-thirds (2/3) majority vote of the Board of Directors present at any Annual Meeting, Regular Meeting or Special Meeting called for that purpose with the change in policy to not be applicable to any pending or currently processing audit report or audit review.

ARTICLE XIV: PROHIBITED CONDUCT, OBLIGATION AND RELATED POLICIES

Section 1. Prohibited Conduct. Neither bullying, harassment nor discrimination shall be tolerated by this Corporation. Any individual bound by these By-Laws who is subject to bullying, abusive behavior, harassment, inappropriate physical touching or suggestive language, unfair behavior or discrimination relating to race, ethnicity, national origin, gender, religion, age, disability, veteran status, marital status, sexual orientation, political or union affiliation, or records of arrests or convictions, or any other protected class, or who witnesses such behavior, is encouraged to report it immediately to a member of the Audit Committee.

Section 2. Obligations. Any individual bound by these By-Laws who is aware of conduct that would reasonably violate the terms of Section 1 herein is required report such activity immediately.

Section 3. Related Policies. Appropriate policies concerning workplace bullying, harassment or discrimination will be stipulated in the personnel policies and procedures promulgated by the Corporation.

ARTICLE XV: FUNDAMENTAL CORPORATE CHANGES

Section 1. By-Law Amendment. These By-Laws may be amended, repealed or altered, by a two-thirds (2/3) majority vote of the Directors present at any Annual Meeting, Regular Meeting or Special Meeting of the Board called for that purpose, excepting that the Board shall have no authority to amend, repeal or alter Article III, Article V, this Article XV or any other By-Law applicable to the rights, entitlements and/or obligations of the Members. Any amendment, repeal or alteration of the By-Laws authorized by the Board shall be presented to the Membership at the next Annual Meeting or Special Meeting of the Membership called for that purpose, and may be vetoed, in whole or in part, or otherwise modified by majority vote of the Members present. The Membership may, by majority vote of the Members present at any Annual Meeting or Special Meeting of the Membership called for that purpose, amend, repeal or alter Article III, Article V, or this Article XV, any other By-Law applicable to the rights, entitlements and/or obligations of the Members or the By-Laws, in their entirety, with or without the consent of the Board vote of each the Board of Directors, and by a two-thirds (2/3) majority vote of those entitled to cast ballots for a resolution of the Membership, provided all statutory approvals are subsequently secured and

Section 2. Certificate of Incorporation Amendment. The Certificate of Incorporation of the Corporation may be changed or amended, in whole or in part, by a two-thirds (2/3) majority of any Certificate of Amendment or Restated Certificate of Incorporation is accepted for filing by the New York Department of State.

Section 3. Purchase, Lease, Sale, Mortgage or Disposition of Real Property or Other Assets. The purchase, lease (for five (5)-or more years), sale, mortgage or disposition of all, or substantially all, of the real property or other assets of the Corporation shall only be authorized by a two-thirds (2/3) majority vote of the Board of Directors and a two-thirds (2/3) majority vote of those entitled to cast ballots for a resolution of the Membership.

Section 4. Creation of Corporate Affiliate Relationship. The Corporation may only enter into any affiliate arrangement, such as a parent/subsidiary relationship with another corporation, or form a new corporation for purposes of establishing an affiliate relationship, by a two-thirds (2/3) majority vote of each the Board of Directors and by a two-thirds (2/3) majority vote of those entitled to cast ballots for a resolution of the Membership.

Section 5. Merger or Consolidation. This Corporation may be merged or consolidated by a two-thirds (2/3) majority vote of each the Board of Directors and by a two-thirds (2/3) majority vote of those entitled to cast ballots for a resolution of the Membership, provided all statutory approvals are subsequently secured and any Certificate of Merger or Consolidation is accepted for filing by the New York State Department of State.

Section 6. Dissolution.

6.1. Procedure. This Corporation may be dissolved by a two-thirds (2/3) majority vote of each the Board of Directors and by a two-thirds (2/3) majority vote of those entitled to cast ballots for a resolution of the

Membership, provided all statutory approvals are subsequently secured and a Certificate of Dissolution is accepted for filing by the New York Department of State.

6.2. Residual Assets. In seeking approvals necessary for Dissolution, the Corporation shall exercise its best efforts to assure that any residual assets shall be donated to another Not-for-Profit Corporation qualified under Section 501(c)(3) of the Internal Revenue Code with purposes similar to those of this Corporation.

ARTICLE XVII: PARLIAMENTARY AUTHORITY

Robert's Rules of Order, Newly Revised, shall be the authority for any rules of order not covered in the Certificate of Incorporation or the Bylaws.

Adopted at a meeting of the Board of Directors of Arts Mid-Hudson, Inc. on the _____ day of _____ 20__ and amended at the Annual Meeting on _____ and passed by the membership.

APPENDIX A—By-Law & Corporation Policy Definitions

1. **Affiliate** - means any entity controlled by, or in control of, the Corporation.
2. **Charitable Corporation** - Any Not-for-Profit Corporation formed, or deemed to be formed, for charitable purposes, including those formerly considered by the Not-for-Profit Corporation Law to be Type "B" or "C" Corporations, as well as former Type "D" with Charitable purposes.
3. **Director** - means any member of the governing board of the Corporation, whether designated as director, trustee, manager, governor, or by any other title.
4. **Entire Board** - means the total number of Directors entitled to vote which the Corporation would have if there were no vacancies. If the By-Laws provide that the Board shall consist of a fixed number of Directors, then the "Entire Board" shall consist of that number of Directors. If the By-Laws provide that the Board may consist of a range between a minimum and maximum number of Directors, then the "Entire Board" shall consist of the number of Directors within such range that were elected as of the most recently held election of Directors, as well as any Directors whose terms have not yet expired.
5. **Independent Auditor** - means any Certified Public Accountant performing the audit of the financial statements of the Corporation who is not, nor is any member of his/her firm, an Officer, Director, Employee or Volunteer of the Corporation or has a Relative who is such an individual.
6. **Independent Director** - means a Director who:
 - i. is not, and has not been within the last three (3) years, an Employee of the

- Corporation or an Affiliate of the Corporation and does not have a Relative who is, or has been within the last three (3) years, a Key Employee (as defined by these By- Laws) of the Corporation or an Affiliate;
- ii. has not received, and does not have a Relative who has received, in any of the last three (3) fiscal years, more than ten thousand dollars (\$10,000) in direct compensation from the Corporation or an Affiliate (other than reimbursement for expenses reasonably incurred as a Director or reasonable compensation for service as a Director if permitted by statute and regulation;
 - iii. is not a current Employee of or does not have a substantial financial interest in, and does not have a Relative who is a current Officer of or has a substantial financial interest in, any entity that has made "payments" to, or received "payments" from, the Corporation or an Affiliate of the Corporation for property or services in an amount which, in any of the last three (3) fiscal years, exceeds the lesser of twenty-five thousand dollars (\$25,000) or two percent (2%) of such entity's consolidated gross revenue. For purposes of this definition the term "payments" does not include charitable contributions, dues or fees paid to the corporation for services which the corporation performs as part of its nonprofit purposes, provided that such services are available to individual members of the public on the same terms; or
 - iv. is not and does not have a relative who is a current owner, whether wholly or partially, director, officer or employee of the Corporation's outside auditor or who has worked on the Corporation's audit at any time during the past three (3) years.
- For purposes of this definition, the term "payment" does not include charitable contributions, dues or fees paid to the Corporation for services which the Corporation performs as part of its nonprofit purposes, provided that such services are available to individual members of the public on the same terms.

7. Key Employee - means any person who is in a position to exercise substantial influence over the affairs of the Corporation, or has been in the prior 5 years.

- A description of relevant factors is at 26 CFR §53.4958-3(e)(2); note, this includes persons who have contributed more than \$5,000, if it exceeds 2% of total contributions that year, in any of the five most current tax years.

8. Member - means any person afforded rights, entitlements or obligations with respect to the governance and operations of the Corporation, as identified in the By-Laws and/or the Certificate of Incorporation, as may be amended. For instance, if a Membership is authorized to elect Directors or approve By-Laws changes.

9. Non-Charitable Corporation - Any Not-for-Profit Corporation formed, or deemed to be formed, for other than the purposes of a Charitable Corporation, including, but not limited to one formed for any one, or more of the following non-pecuniary purposes: civic, patriotic, political, social, fraternal, athletic, agricultural, horticultural, or animal husbandry, or for the purpose of operating a professional, commercial, industrial, trade or service Corporation, including those formerly considered by the Not-for-Profit Corporation Law to be Type "A" Corporations, as well as former Type "D" with Non-Charitable purposes.

- 10. Officer** - means any director, trustee, manager, governor, or by any other title, any individual holding an office of the Corporation identified in the Certificate of Incorporation and/or By-Laws.
- 11. Related Party** - means:
- i. any Director, Officer or Key Employee of the Corporation or any Affiliate, or any other person who exercises the powers of directors, officers or key employees over the affairs of the Corporation or any affiliate of the Corporation;
 - ii. any Relative of any individual described in clause (i); or
 - iii. any entity in which any individual described in clauses (i) and (ii) herein has a thirty-five percent (35%) 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 (5%).
- 12. 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, is a participant. The assessment of, and any determination concerning, any Related Party Transaction, must be considered in strict compliance with the adopted policies and procedures of the Corporation.
- 13. Relative** - of an individual means his or her spouse, domestic partner, ancestors, brothers and sisters (whether whole or half-blood), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses or domestic partners of brothers, sisters, children, grandchildren and/or great-grandchildren.

APPENDIX B—Board of Directors Conflicts of Interest Policy & Related Party Transactions Policy

1. Policy Requirements.

Any real or potential “Conflict of Interest” and/or “Related Party Transaction” (each as defined herein) and any other interested matter must be addressed in accordance with the terms of this Board of Directors Conflicts of Interest and Related Party Transactions Policy. Any Conflict of Interest and/or Related Party Transaction, or any other interested matter, authorized in a manner that is materially inconsistent with the terms of this policy may be subsequently rendered void or voidable by a vote of a majority of the Board of Directors, excluding any Directors with an interest in the subject transaction or matter.

2. Definitions.

- a. **Conflict of Interest.** Unless otherwise specifically excluded herein, a “Conflict of Interest” means any transaction, agreement or any other arrangement, including, but not limited to a “Related Party Transaction,” as defined herein, between this Corporation and another individual or entity that confers a direct, substantial benefit to any Related Party, as defined herein. The following circumstances shall not be considered a Conflict of Interest for purposes of interpretation of this definition or consideration of a Conflict of Interest by the Board of Directors:
 - i. the current, or prior, service of an Officer, Director or Key Employee of this Corporation, or a Relative thereof, all as defined herein, as an officer, director, trustee, key employee or partner, or the equivalent thereof, of any corporate entity that is: considered to be an Affiliate, as defined herein; otherwise controlled by, or controls, this Corporation, and/or; an Affiliate of any corporate entity controlled by, or that controls, this Corporation, or;
 - ii. the current, or prior, receipt by an Officer, Director or Key Employee of this Corporation, or a Relative thereof, of goods or services offered by this Corporation that are generally

made available to other similarly-situated individuals, provided that the recipient does not, or has not, received any form of preferential treatment as a consequence of his/her relationship with this Corporation.

The assessment of, and any determination concerning any Conflict of Interest must be considered in strict compliance with the adopted policies and procedures of the Corporation.

b. Related Party Transaction. Unless otherwise specifically excluded herein, 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, is a participant. The following circumstances shall not be considered a Related Party Transaction for purposes of interpretation of this definition or consideration of a Related Party Transaction by the Board of Directors:

- i. the current, or prior, service of an Officer, Director or Key Employee of this Corporation, or a Relative thereof, all as defined herein, as an officer, director, trustee, key employee or partner, or the equivalent thereof, of any corporate entity that is considered to be an Affiliate, as defined herein; otherwise controlled by, or controls, this Corporation, and/or; an Affiliate of any corporate entity controlled by, or that controls, this Corporation, or; the current, or prior, receipt by an Officer, Director or Key Employee of this Corporation, or a Relative thereof, of goods or services offered by this Corporation that are generally made available to other similarly-situated individuals, provided that the recipient does not, or has not, received any form of preferential treatment as a consequence of his/her relationship with this Corporation.

The assessment of, and any determination concerning, any Related Party Transaction, must be considered in strict compliance with the adopted policies and procedures of the Corporation.

c. Related Party. A “Related Party” means any:

- i. Officer, as defined by statute;
- ii. Director, as defined by statute;
- iii. Key Employee [any person who is in a position to exercise substantial influence over the affairs of the Corporation, or has been in the prior 5 years, such as Directors or Officers]
 - a. A description of relevant factors is at 26 CFR §53.4958-3(e)(2); note, this includes persons who have contributed more than \$5,000, if it exceeds 2% of total contributions that year, in any of the five most current tax years;
- iv. Founder of the Corporation;
- v. Individual who has made substantial monetary contributions to the Corporation;
- vi. Relative, as defined by statute, of an Officer, Director, Key Employee, founder or substantial contributor;
- vii. Partnership or professional corporation where an Officer, Director or Key Employee, or a Relative thereof, directly or indirectly, has an ownership interest in excess of five percent (5%);
- viii. Entity where an Officer, Director or Key Employee, or a Relative thereof, directly or indirectly, holds a thirty-five percent (35%), or greater, ownership or beneficial interest; or,

- ix. Corporate entity where an Officer, Director or Key Employee, or a Relative thereof, serves as an officer, director, trustee, key employee or partner, or the equivalent thereof.

3. General Disclosure.

Prior to initial election, and annually thereafter, each Director shall be required to complete, sign and submit to the Secretary, or an authorized designee, as appropriate, a written statement identifying, to the best of the Director's knowledge, any entity of which such Director is an officer, director, trustee, owner (either as a sole proprietor, partner or member) 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 real or potential interest. The Secretary shall provide a copy of all completed disclosure statements to the Board of Directors, or another authorized committee thereof, as appropriate. A copy of each disclosure statement shall be available to any Director on request.

4. Specific Disclosure.

If at any time during his or her term of service, a Director, Officer or Key Employee (each as defined by Appendix "A") acquires an interest, or circumstances otherwise arise, which could give rise to a real or potential Conflict of Interest and Related Party Transaction, or any other interested matter, he or she shall promptly disclose, in good-faith, to the Board of Directors, or an authorized committee thereof, as appropriate, the material facts concerning such interest.

5. Process of Review.

Unless the Board of Directors elects to directly assume such responsibility, the Audit and Finance Committee, or another designated Committee of the Board, shall thoroughly review any real, or potential, Conflict of Interest or Related Party Transaction, or any other interested matter and submit to the Board a recommendation as whether or not it should be approved.

6. Affiliate Transactions.

The current, or prior, service of an Officer, Director or Key Employee of this Corporation, or a Relative thereof, all as defined by statute, as an officer, director, trustee, key employee or partner, or the equivalent thereof, of any corporate entity that is, i) considered to be an Affiliate, as defined by statute; ii) otherwise, controlled by, or controls, this Corporation, and/or; iii) is an Affiliate of any corporate entity controlled by, or that controls, this Corporation, shall not, standing alone, be considered a Conflict of Interest or a Related Party Transaction for purposes of interpretation of the definition of either term or consideration of any such matter by the Board of Directors.

7. *Personal Benefit from Common Transactions.*

The current, or prior, receipt by an Officer, Director or Key Employee of this Corporation, or a Relative thereof, of goods or services offered by this Corporation that are generally made available to other similarly-situated individuals, shall not be considered a Conflict of Interest or a Related Party Transaction for purposes of interpretation of the definition of either term, or consideration of any such matter, by the Board of Directors, provided that the recipient does not, or has not, received any form of preferential treatment as a consequence of his/her relationship with this Corporation.

8. *Standard of Review.*

For purposes of this policy, amongst the considerations of the Board of Directors, the Audit and Finance Committee, or another authorized Committee of the Board, as appropriate, relative to assessment of any real or potential Conflict of Interest and/or Related Party Transaction, shall be the determination as to whether any financial interest, amounts to a Conflict of Interest and/or a Related Party Transaction, each as defined herein. Should any such financial interest be considered a Conflict of Interest and/or a Related Party Transaction, the terms of this "Conflict of Interest and/or Related Party Transaction Policy" shall apply with regard to proper consideration of the matter. Should the financial interest not amount to a Conflict of Interest and/or Related Party Transaction, as defined herein, the transaction shall be considered an ordinary business matter unworthy of additional non-customary review and/or documentation.

9. *Authorization of Conflicts of Interest & Related Party Transactions.*

The Corporation shall not enter into any matter considered to be a Conflict of Interest and/or a Related Party Transaction, or any other interested matter, unless such a financial transaction, or other matter, is determined by the Board to be fair, reasonable and in the Corporation's best interest at the time of such determination.

10. *Authorization of Transactions Concerning Substantial Financial Interest.*

With respect to any Conflict of Interest and/or Related Party Transaction, or other interested matter, in which a Related Party, or otherwise conflicted individual, has a substantial financial interest, the Board of Directors, the Audit and Finance Committee, or another authorized designated Committee of the Board, as appropriate shall:

- i. prior to entering into any such transaction, or matter, to the extent practicable, consider alternative transactions and/or a review of information compiled from, at least, two (2) independent appraisals of other comparable transactions;
- ii. approve the transaction by not less than a two-thirds (2/3s) majority vote of the Directors and/or committee members, as appropriate, present at the meeting; and,
- iii. contemporaneously document the basis for approval by the Board, or authorized committee, as appropriate, which shall include the preparation of a written report, to be attached to the minutes of

any meeting where the transaction or matter was deliberated or authorized, identifying the details of the transaction or matter; alternate transactions considered; materials or other information reviewed, Directors, or committee members, present at times of deliberations; names of those who voted in favor, opposed, abstained or were absent; and, the specific action authorized.

11. Restrictions.

With respect to any Conflict of Interest and/or Related Party Transaction, or any other conflicted matter, considered by the Board, the Audit and Finance Committee, or another authorized designated Committee of the Board, as appropriate, no Related Party, or otherwise conflicted individual, shall:

- i. be present at, or participate in, any deliberations;
- ii. attempt to influence deliberations; and/or,
- iii. cast a vote on the matter.

Nothing herein shall prohibit the Board, or authorized committee, as appropriate, from requesting that a Related Party, or otherwise conflicted individual, present information concerning a Conflict of Interest and/or Related Party Transaction, or any other interested matter, at a Board, or authorized committee thereof, meeting prior to the commencement of deliberations or related voting.

12. Recognized Exceptions.

Although not stipulated in statute, the Charities Bureau of the New York State Office of the Attorney General has advised that a certain transaction that might, by definition, be considered a Conflict of Interest and/or a Related Party Transaction need not necessarily be subject to, otherwise applicable, contemporaneous documentation requirements stipulated herein as a consequence of it being a matter that would not customarily require the action or approval of the Board of Directors. As a consequence of the foregoing, while all other obligations of this policy remain in effect, the Corporation need not contemporaneous document, or disclose for auditing purposes, any of the following:

- i. ***de minimus transactions*** — transactions being of a small size relative to this Corporation's budget and assets, which would customarily fall below the threshold of review by the Board of Directors;
- ii. ***ordinary course of business transactions*** — transactions or activities that are undertaken in the ordinary course of business by staff of this Corporation, as consistent with either past corporate or sector practices;
- iii. ***mission-focused transactions*** — transactions involving benefits provided to a Director solely as a consequence of his/her membership in a class of individuals that the Corporation intends to benefit in accomplishing its mission, provided any such transactions are authorized in good-faith, without any undue benefit to the conflicted, or otherwise interested, Director; and/or,
- iv. ***compensation related transactions*** — transactions related to compensation, or reimbursement of a Related Party, or otherwise conflicted Director, for reasonable expenses incurred on behalf of this Corporation.

Nothing herein shall be interpreted so as to permit or authorize a Related Party, or otherwise conflicted Director, to attempt to improperly influence the decision-maker(s) or reviewer(s) in a given Related Party Transaction, or other conflicted matter.

13. Audit-Related Disclosure.

It shall be the duty of the Secretary to see to it that all newly-received and annually-submitted Director Disclosure Statements and any case-specific Conflict of Interest and/or Related Party Transaction reports, together the minutes of any related meetings, are promptly provided to the Secretary of the Board of Directors, or the Chair of an authorized committee thereof, as appropriate, in an effort to assure that they are properly considered for auditing purposes.

14. Nepotism.

If a “Relative” (as defined by *Appendix “A”*) or a household member, of an employee or Director is considered for employment or retention by the Corporation as an employee or contractor, a presumption of a Conflict of Interest and Related Party Transaction is created. The terms of this Conflict of Interest and Related Party Transaction Policy will govern the consideration of such a matter. In cases where a Related Party, or household member of a conflicted individual, is found to be the best candidate for a given position and is hired as an employee or retained as a contractor, the Corporation shall document that the employee/contractor is qualified and paid a reasonable salary/rate in accordance with other corporate employees and contractors. In addition, such employee or contractor shall not be supervised by, or be in the line of supervision of, the Related Party or conflicted household member.

APPENDIX C—Code of Ethical Conduct & Annual Potential Conflicts Disclosure Statement

—Code of Ethical Conduct—

This Corporation is committed to maintaining the highest standard of conduct in carrying out our fiduciary obligations in pursuit of our tax-exempt mission and purposes. As such, each and every Director, Officer and Key Employee (to the extent applicable) shall adhere to the following code of conduct:

By-Laws & Policies.

- be aware of and fully abide by the By-Laws, policies and procedures of the Corporation;
- assure compliance of the Corporation with respect to all applicable statutes, regulations and contractual requirements;
- respect and fully support the duly-made decisions of the Board of Directors in accordance with all applicable fiduciary duties, including those related to care, loyalty and obedience;
- respect the work and recommendations of committees, which are duly charged and have convened and deliberated accordingly;
- work diligently to ensure that the Board fully assumes its role as a policy-making, governing body; and
- understand that the Executive Director, as the Corporation's chief administrative officer, has the sole responsibility for the day-to-day management of the Association, specifically, including the supervision of personnel, and for implementation of Board policies and directives.

Informed Participation.

- attend most, if not all, meetings of the Board of Directors and assigned committees;
- remain informed of all matters, including financial, that come before the Board and/or assigned committees;
- respect and follow the "chain of command" of the Board and administration;
- constructively and appropriately bring to the attention of the Board, Officers, committee chairs and/or appropriate staff any questions, personal views, opinions and comments of significance on relevant matters of governance, policymaking and corporate constituencies;
- oppose, on the record, actions of the Board with which one disagrees or is in serious doubt;
- appropriately challenge, within the structure and By-Laws of the Corporation, those binding decisions that violate the legal, fiduciary or contractual obligations of the Corporation;
- do not fully commit to vote a particular way on an issue before participating in a deliberation session in which the matter is discussed and action taken; and
- act in ways that do not interfere with the duties or authority of staff.

Conflict of Interest, Representation & Confidentiality.

- represent the best interests of the Corporation at all times and to declare any and all duality of interests or conflicts of interests, material or otherwise, that may impede or be perceived as impeding the capacity to deliberate or act in the good faith, on behalf of the best interests of the Corporation;
- conform to the procedures for such disclosure and actions as stated in the By-Laws or otherwise established by the Board of Directors;
- not seek or accept, on behalf of self or any other person, any financial advantage or gain that may be offered because, or as a result, of the Director's affiliation with the Corporation;
- publicly support and represent the duly made decisions of the Board;
- always speak positively of the Corporation when communicating with current and potential stakeholders and constituencies;
- not take any public position representing the Corporation on any issue that is not in conformity with the official position of the Corporation;
- not use or otherwise relate one's affiliation with the Board to independently promote or endorse political candidates or parties for the purpose of election; and
- maintain full confidentiality and proper use of information obtained as a result of Board service in accordance with Board policy or direction.

Interpersonal.

- speak clearly, listen carefully to and respect the opinions of fellow Directors and Key Employees
- promote collaboration and partnership among all Directors;
- maintain open communication and an effective partnership with the Corporation's Officers and various committees, if any;
- remain "solution focused," offering criticism only in a constructive manner;
- not filibuster or engage in activities during meetings that are intended to impede or delay the progress and work of the Board because of differences in opinion or other personal reasons; and
- always work to develop and improve one's knowledge and skills that enhances one's abilities as a Director.

—Annual Potential Conflicts Disclosure Statement—

As a Director or Officer or Key Employee of the Corporation, prior to your being seated on the Board of Directors or commencing employment with the Corporation, as appropriate, and annually thereafter, you are required to truthfully, completely and accurately disclose all information requested herein and to promptly update all such information as factual circumstances may change from time-to-time. With regard to this Conflicts Disclosure Statement, be advised, all material terms are defined by *Appendix "A"* of the By-Laws of the Corporation, which is entitled "By-Law & Corporation Policy Definitions."

please mark 'Yes' or 'No' & provide additional information when requested

Financial Information Return Disclosure

Responses to the following questions are required in order to complete financial information returns annually submitted to the Internal Revenue Service and the Office of the Attorney General.

1. Have you served as an officer, director, trustee, key employee, partner or member of, or hold a thirty-five percent (35%) 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 (5%), in, an entity, which during the most recently completed, or current, fiscal year, had, or are reasonably anticipated to have, a direct, or indirect, business relationship, with the Corporation?

_____ _____ If *Yes*, briefly describe below & attach a detailed explanation
No Yes

2. Have you, individually, or through an entity where you hold a thirty-five percent (35%) 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 (5%), during the most recently completed, or current, fiscal year, had, or are reasonably anticipated to have, a direct, or indirect, business relationship, with any individual who is a current or former "Officer," "Director" or "Key Employee" of the Corporation?

_____ _____ If *Yes*, briefly describe below & attach a detailed explanation
No Yes



3. Do you have a “Relative” who, during the most recently completed, or current, fiscal year, had, or is reasonably anticipated to have, a direct, or indirect, business relationship with the Corporation?

_____ _____
No Yes If *Yes*, briefly describe below & attach a detailed explanation

4. Have you, or did you have a “Relative” who, during the most recently completed, or current, fiscal year, had, or is reasonably anticipated to have, any transaction with the Corporation that might reasonably be considered a real or potential conflict of interest pursuant to the Corporation’s Board of Directors Conflicts of Interest Policy, which has not been otherwise disclosed herein?

_____ _____
No Yes If *Yes*, briefly describe below & attach a detailed explanation

5. Have you been provided with, properly reviewed and reasonably understand the terms of the Corporation’s current written Board of Directors Conflicts of Interest Policy?

_____ _____
No Yes If No, briefly describe below &/or attach a detailed explanation

Independent Director Assessment Disclosure.

In order to qualify as an “Independent Director,” as defined by the New York Not-for-Profit Corporation Law, an Officer or Director must respond in the negative to each of the following questions, although failure to respond to all questions in the negative shall not necessarily preclude such an Officer or Director from serving on the Board of Directors.

1. Are you currently, or have you been within the last three (3) fiscal years, an employee of the Corporation, or an “Affiliate” of the Corporation?

_____ _____
No Yes If *Yes*, briefly describe below & attach a detailed explanation

2. Do you have a “Relative” who is, or has been within the last three (3) years, a “Key Employee” of the Corporation or an Affiliate of the Corporation?

_____ _____
No Yes If *Yes*, briefly describe below & attach a detailed explanation

3. Have you received, within the last three (3) fiscal years, more than ten thousand dollars (\$10,000) in direct compensation from the Corporation, or an "Affiliate" of the Corporation, other than reimbursement for out-of-pocket expenses?

No Yes If *Yes*, briefly describe below & attach a detailed explanation

4. Do you have a "Relative" who has received, within the last three (3) fiscal years, more than ten thousand dollars (\$10,000) in direct compensation from the Corporation, or an "Affiliate" of the Corporation, other than reimbursement for out-of-pocket expenses?

No Yes If *Yes*, briefly describe below & attach a detailed explanation

5. Are you a current officer or employee of, or do you have a substantial financial interest in, any entity that has made "payments" to, or received "payments" from, the Corporation or an "Affiliate" of the Corporation, for property or services in an amount which, within the last three (3) fiscal years, exceeds the lesser of twenty-five thousand dollars (\$25,000) or two percent (2%) of such entity's consolidated gross revenue. For purposes of this question, the definition the term "payments" does not include charitable contributions.

No Yes If *Yes*, briefly describe below & attach a detailed explanation

6. Do you have a Relative who is a current officer or employee of, or has a substantial financial interest in, any entity that has made "payments" to, or received "payments" from, the Corporation or an "Affiliate," for property or services in an amount which, within the last three (3) fiscal years, exceeds the lesser of twenty-five thousand dollars (\$25,000) or two percent (2%) of such entity's consolidated

gross revenue. For purposes of this question, the definition the term “payments” does not include charitable contributions.

No Yes If *Yes*, briefly describe below & attach a detailed explanation

—Certification—

I, the undersigned, certify that I have read and understand this Code of Ethical Conduct & Annual Conflicts Disclosure Statement. I agree that my actions will comply with the disclosures found in this document. I further affirm that neither I, as a Related Party nor any Relative have, or had, an interest, or has taken any action, that contravenes, or is likely to contravene, the Conflicts of Interests Policy of the Corporation or, otherwise impedes my ability to act as a fiduciary and in the best interests of the Corporation, except those that may have been disclosed herein.

Director Signature

Date

APPENDIX D—Whistleblower Protection Policy

1. Intent.

The Corporation shall endeavor to protect any “Member,” “Director,” “Officer” (each as defined by these By-Laws) employee, including any “Key Employee” (as defined by *Appendix “A”*) or volunteer who provide substantial services to the Corporation from intimidation, bullying, harassment, discrimination or other forms of retaliation on the part of the Corporation, or any of its Directors, Officers, employees or volunteers, as a consequence of the good-faith filing of a report relative to possible violations of any statute, regulation, applicable ethical standard or policy or procedure of the Corporation.

2. Requirements.

Provided the Corporation has twenty (20) or more employees (full-time, part-time, or a combination thereof) and annual revenue exceeding one million dollars (\$1,000,000), it is required, pursuant to statute, to adhere to the terms of this policy, which, in the absence of such considerations, shall be considered advisable, but not necessarily required.

3. Disclosure.

If any Director, Officer, employee or volunteer reasonably believe that some policy, practice, or activity of the Corporation, or of another individual or entity with whom the Corporation has a substantial business relationship exceeding ten thousand dollars (\$10,000), may violate any statute, regulation, applicable ethical standard or policy or procedure of the Corporation, such an individual is required to file a confidential written report summarizing his/her concerns with a member of the Audit & Finance Committee.

4. Investigation & Resolution Procedures.

The investigation of any alleged misconduct or omission governed by this policy shall be conducted in the following manner:

- a. upon receipt of a confidential written report submitted by a whistleblower to a member of the Audit and Finance Committee, the report shall ordinarily be forwarded to the Chair of the Audit and Finance Committee who shall be responsible for properly receiving, overseeing, investigating, assessing, rendering determinations concerning and assuring for the proper documentation and recordation of any, and all, such reports in a manner consistent with the terms of this Policy. In instances where the Chair of the Audit and Finance Committee is him/herself a whistleblower, a subject of the whistleblower’s claims or otherwise conflicted, he/she shall disclose to the Committee the existence of the whistleblower’s claim and that he/she has a real or potential conflict of interest. The Committee shall then appoint another Director to serve as an “Employee Protection Officer” responsible for overseeing the Corporation’s response to the whistleblower’s report;

- b. within thirty (30) days of receipt of the written report of a whistleblower, or as soon as practicable thereafter, the Chair of the Audit and Finance Committee, or designated Employee Protection Officer, as appropriate, shall act as follows:
 - i. safeguard the confidentiality of subject whistleblower by not disclosing to other Directors, Officers, employees or volunteers of the Corporation, the existence of the alleged misconduct or omission, the underlying factual circumstances of the filing of the written report, except as needed in order to properly investigate the matter;
 - ii. conduct an appropriate investigation of the matter within approximately thirty (30) days of receipt of the written report, or as soon as practicable thereafter;
 - iii. review the policies and procedure of the Corporation, making particular note of the alleged misconduct or omission;
 - iv. assess, in the most confidential manner possible, the concerns of the subject whistleblower via written questionnaire and/or interview, as well as those of other Directors, Officers, employees or volunteers who may have an understanding of, or be complicit in, the alleged misconduct or omission, in order to form an informative opinion of the matter and, if necessary, potential recommendations for resolution;
 - v. prepare and submit a written report on the matter to the Audit and Finance Committee, together with recommendations as to resolution and a timeline for implementation of recommended actions; and,
 - vi. forward a copy of the written report to the “Entire Board” (as defined by *Appendix “A”*).
- c. the Audit and Finance Committee shall act on the written report of the Chair, or designated Employee Protection Officer, as appropriate, review findings and recommendation identified therein, and submit to the Board of Directors a final written assessment of the matter, recommendations as to resolution and a timeline for implementation of recommended actions; and,
- d. upon receipt of the written report of the Chair of the Audit and Finance Committee, or Employee Protection Officer, as appropriate, and the written assessment of the Audit & Finance Committee, the Board of Directors, at its next scheduled Regular Meeting, or a Special Meeting called for that purpose, shall consider the matter and render binding determinations as to resolution, up to, and including, the suspension or removal of any Director, Officer, employee or volunteer of the Corporation found to have engaged in the subject misconduct or omission.

5. *Retaliation Protections.*

Upon filing a written report of alleged violation(s) of statute, regulation or applicable ethical standard, any such Director, Officer or Key Employee shall be protected, directly and indirectly, from intimidation, bullying, harassment, discrimination or other forms of retaliation on the part of the Corporation or any of its Directors, Officers, employees or volunteers.

6. *Documentation.*

The Audit and Finance Committee and the Board of Directors shall assure that the matter is properly documented in the records of the Corporation, including minutes of the meetings of the Committee and the Board where the matter was considered and/or addressed.

7. *Limitations.*

This policy does not protect any Member, Director, Officer, employee or volunteer of the Corporation acting in bad faith; who is deliberately dishonest; and/or, who has personally garnered profit, or some other advantage, to which he/she is not legally entitled to receive. No Director, Officer, employee or volunteer should expect protection under this policy if he/she is complicit in the misconduct or omission that is the subject of his/her concern, unless his/her complicity is, itself, prompted by duress or is motivated by reasonable fear of some form of intimidation, bullying, harassment, discrimination or other form of retaliation.

8. *Publication.*

A copy of the policy, or an analogous whistleblower protection policy, as appropriate shall be distributed to all Directors, Officers, employees and volunteers who provide substantial services to the Corporation.

APPENDIX E—Audit Oversight Policy

1. Auditing.

Provided the Corporation is required pursuant to stipulated statutory thresholds dictated by revenue annually received and/or other applicable regulation and/or contractual obligation, demanded by the Office of the Attorney General, requested by another regulatory agency or funder as a condition of funding, or otherwise recommended and authorized by the Board of Directors, the accounts of the Corporation shall be subject to an annual audit report or audit review report prepared by “Independent Auditor” (as defined by *Appendix “A”*) to be overseen by the Audit and Finance Committee, which shall be comprised solely of “Independent Directors” (as defined by *Appendix “A”*). If such an audit report or audit review is commissioned, the Corporation shall adhere to the terms of this Audit Oversight Policy, which, in the absence of statutory obligation, shall be considered advisable, but not required.

2. Restrictions.

Once retained, neither the Independent Auditor, nor or a partner, associate or employee of the Independent Auditor’s firm or practice, or a “Relative” (as defined in *Appendix “A”*), or a partner, associate or employee of a Relative’s firm or practice, shall perform any assistance to the Corporation other than that directly related to auditing functions.

3. General Duties.

While working with the Independent Auditor retained to prepared annual audit report, the Corporation’s Audit and Finance Committee, which shall be comprised solely of “Independent Directors” (as defined by *Appendix “A”*), shall perform the following duties:

- i. oversee the accounting and financial reporting processes of the Corporation and the audit of the Corporation's financial statements;
- ii. annually retain or renew the retention of an Independent Auditor to conduct the audit and, upon completion thereof, review the results of the audit and any related management letter with the Independent Auditor; and,
- iii. oversee the adoption, implementation of, and compliance with the Corporation’s Conflicts of Interest Policy and Related Party Transaction Policy and any required Whistleblower Protection Policy adopted by the Corporation, if such functions are not otherwise performed by another Committee of the Board comprised solely of Independent Directors or the Entire Board, itself.

4. Revenue-Imposed Duties.

The Audit and Finance Committee shall also be required to perform the following duties:

- i. review with the Independent Auditor the scope and planning of the audit prior to the audit's commencement;
- ii. upon completion of the audit, review and discuss with the Independent Auditor:
 - (a) any material risks and weaknesses in internal controls identified by the Independent Auditor;
 - (b) any restrictions on the scope of the Independent Auditor's activities or access to requested information;
 - (c) any significant disagreements between the Independent Auditor and management of the Corporation; and,
 - (d) the adequacy of the Corporation's accounting and financial reporting processes;
- iii. annually consider the performance and independence of the Independent Auditor; and,
- iv. report on the Committee's activities to the Board of Directors.

5. Affiliate Corporations.

Should the Corporation control other "Affiliate" (as defined by *Appendix "A"*) subsidiary corporations, the Audit & Finance Committee of this Corporation may, pursuant to state statute and these By-Laws, perform all audit oversight duties stipulated in this Article for any such Affiliate subsidiary corporations.

6. Restrictions.

Only Independent Directors may participate in any Audit and Finance Committee deliberations or voting relating to matters set forth in this Appendix.

APPENDIX F—Indemnification & Insurance Policy

1. Authorized Indemnification.

Unless clearly prohibited by applicable statute, regulation or these By-Laws, the Corporation shall indemnify any person (an “Indemnified Person”) made or threatened to be made a party in any action or proceeding, whether civil, criminal, administrative, investigative or otherwise, including any action by the Corporation, by reason of the fact that s/he (or her/his Testator or Administrator, if then deceased), whether before or after adoption of this Article: (a) is or was a Member, Director or Officer of the Corporation, or; (b) is serving or served, in any capacity, at the request of the Corporation, as a Member, Director or Officer of any other corporation, or any partnership, joint venture, trust, employee benefit plan or other enterprise. The indemnification shall be against all judgments, fines, penalties, amounts paid in settlement (provided the Corporation shall have consented to such settlement) and reasonable expenses, including attorneys’ fees and costs of investigation, incurred by an Indemnified Person with respect to any such threatened or actual action or proceeding.

2. Prohibited Indemnification.

The Corporation shall not indemnify any person if a judgment, or other final adjudication, adverse to any Indemnified Person establishes, or the Board of Directors in good faith determines, that such person’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 that s/he personally garnered any financial profit or other advantage to which s/he was not legally entitled.

3. Advancement of Expenses.

The Corporation shall, on request of any Indemnified Person who is, or may be, entitled to be indemnified by the Corporation, pay or promptly reimburse an Indemnified Person’s reasonably incurred expenses in connection with a threatened or actual action or proceeding prior to its final disposition. However, no such advancement of expenses shall be made unless the Indemnified Person makes a written commitment to repay the Corporation, with interest, for any amount advanced for which it is ultimately determined that he/she is not entitled to be indemnified pursuant to statute or these By-Laws. An Indemnified Person shall cooperate with any request by the Corporation that common legal counsel be used by the parties for such action or proceeding who are similarly situated unless it would be inappropriate to do so because of real or potential conflicting interests of the parties.

4. Indemnification of Others.

Unless clearly prohibited by law or these By-Laws, the Board may approve indemnification by the Corporation, as set forth in Section 1 of this Appendix, or advancement of expenses as set forth in Section 3 of this Appendix, to a person (or her/his Testator or Administrator, if then deceased) who is or was employed by the Corporation or who is or was a volunteer for the Corporation, and who is made, or

threatened to be made, a party in any action or proceeding, by reason of the fact of such employment or volunteer activity, including actions undertaken in connection with service at the request of the Corporation in any capacity for any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

5. Determination of Indemnification.

Indemnification mandated by a final order of a court of competent jurisdiction will be paid. After termination or disposition of any actual or threatened action or proceeding against an Indemnified Person, if indemnification has not been ordered by a court, the Board shall, upon written request by an Indemnified Person, determine whether and to what extent indemnification is permitted pursuant to these By-Laws. Before indemnification can occur, the Board must expressly find that such indemnification will not violate the provisions of Section 2 herein. No Director with a personal interest in the outcome, or who is a party to such actual or threatened action or proceeding concerning which indemnification is sought, shall participate in this determination. If a quorum of disinterested Directors is not obtainable, the Board shall act only after receiving the opinion in writing of independent legal counsel that indemnification is proper in the circumstances under then applicable law and these By-Laws.

6. Binding Effect.

Any person entitled to indemnification under these By-Laws has a legally enforceable right to indemnification which cannot be abridged by amendment of these By-Laws with respect to any event, action or omission occurring prior to the date of such amendment.

7. Insurance.

The Corporation is required to purchase Directors and Officers (“D & O”) liability insurance coverage. To the extent permitted by law, such insurance shall insure the Corporation for any obligation it incurs as a result of this Appendix, or operation of law, and it may insure directly the Members, Directors, Officers, employees or volunteers of the Corporation for liabilities against which they are not entitled to indemnification under this Article, as well as for liabilities against which they are entitled or permitted to be indemnified by the Corporation.

8. Nonexclusive Rights.

The provisions of this Appendix shall not limit or exclude any other rights to which any person may be entitled under law or contract. The Board is authorized to enter into agreements on behalf of the Corporation with any Member, Director, Officer, employee, or volunteer to provide them rights to indemnification or advancement of expenses in connection with potential indemnification in addition to the provisions therefore in this Appendix, subject to the limitations of Section 2 herein.