

# CHARLOTTE SYMPHONY

## BYLAWS OF

### CHARLOTTE SYMPHONY ORCHESTRA SOCIETY, INCORPORATED TABLE OF CONTENTS

Adopted by the Board of Directors on 4.19.23

Section	Page
<b>ARTICLE I – TITLE, PURPOSE AND MISSION</b> .....	<b>3</b>
<b>ARTICLE II - OFFICES</b> .....	<b>3</b>
Section 2.1 <b>Principal Office</b> .....	3
Section 2.2 <b>Registered Office</b> .....	3
Section 2.3 <b>Other Offices</b> .....	3
<b>ARTICLE III - VOTING; MEETINGS</b> .....	<b>3</b>
Section 3.1 <b>Voting Rights</b> .....	3
Section 3.2 <b>Place of Meetings</b> .....	3
Section 3.3 <b>Annual Meeting</b> .....	3
Section 3.4 <b>Substitute Annual Meeting</b> .....	4
Section 3.5 <b>Regular Meetings</b> .....	4
Section 3.6 <b>Special Meetings</b> .....	4
Section 3.7 <b>Notice of Meetings</b> .....	4
Section 3.8 <b>Quorum for Meetings of all Directors</b> .....	4
Section 3.9 <b>Removal of Director or Member of Board of Trustees</b> .....	4
<b>ARTICLE IV - BOARD OF DIRECTORS; BOARD OF TRUSTEES</b> .....	<b>4</b>
Section 4.1 <b>General Powers and Expectations of the Board of Directors</b> .....	4
Section 4.2 <b>Number, Terms and Qualifications of the Board of Directors</b> .....	5
Section 4.3 <b>Change in Number of Directors</b> .....	6
Section 4.4 <b>Term Limits for Directors</b> .....	6
Section 4.5 <b>Vacancies</b> .....	6
Section 4.6 <b>Compensation</b> .....	6
Section 4.7 <b>Manner of Acting</b> .....	6
Section 4.8 <b>Organization</b> .....	6
Section 4.9 <b>Presumption of Assent</b> .....	6
Section 4.10 <b>Informal Action by Directors</b> .....	7
Section 4.11 <b>Telephone and Video Attendance at Meetings</b> .....	7
Section 4.12 <b>Board of Trustees</b> .....	7
Section 4.13 <b>Meetings of Board of Trustees</b> .....	7
<b>ARTICLE V - OFFICERS</b> .....	<b>8</b>

Section 5.1	<b>Officers of the Corporation</b> .....	8
Section 5.2	<b>Qualifications</b> .....	8
Section 5.3	<b>Election and Terms</b> .....	8
Section 5.4	<b>Vacancies</b> .....	8
Section 5.5	<b>Roles and Responsibilities of Officers</b> .....	8
<b>ARTICLE VI - COMMITTEES</b> .....		<b>10</b>
Section 6.1	<b>Committees</b> .....	10
Section 6.2	<b>Other Defined Committees</b> .....	11
<b>ARTICLE VII - MUSIC DIRECTOR</b> .....		<b>12</b>
Section 7.1	<b>Music Director</b> .....	12
<b>ARTICLE VIII - INDEMNIFICATION GENERAL PROVISIONS</b> .....		<b>12</b>
Section 8.1	<b>Indemnification</b> .....	12
Section 8.2	<b>Right to Indemnification under N.C. Gen. Stat. Section 55A-8-52</b> .....	12
Section 8.3	<b>Advances under N.C. Gen. Stat. Section 55A-8-53</b> .....	12
Section 8.4	<b>Determination and Authorization of Indemnification under N.C. Gen. Stat. Section 55A-8-55</b> .....	13
Section 8.5	<b>Indemnification of Officers [and Employees] Under N.C. Gen. Stat. Section 55A-8-56</b> .....	13
Section 8.6	<b>Insurance</b> .....	13
Section 8.7	<b>Definitions</b> .....	14
<b>ARTICLE IX - GENERAL PROVISIONS</b> .....		<b>14</b>
Section 9.1	<b>Fiscal Year</b> .....	14
Section 9.2	<b>Independent Audit</b> .....	14
Section 9.3	<b>Auxiliary and Affiliated Organizations</b> .....	14
Section 9.4	<b>Amendments</b> .....	14
Section 9.5	<b>Seal</b> .....	14
Section 9.6	<b>Records</b> .....	14
Section 9.7	<b>Interpretation</b> .....	15

**BYLAWS  
OF  
CHARLOTTE SYMPHONY ORCHESTRA SOCIETY, INCORPORATED**

**ARTICLE I – TITLE, PURPOSE AND MISSION**

The Corporation shall be known as the CHARLOTTE SYMPHONY ORCHESTRA SOCIETY, INCORPORATED (hereinafter the “Corporation”). Its purpose shall be to bring the rewards of great music to the citizens of Charlotte and the States of North and South Carolina by presenting a professional symphony orchestra and its ensembles and a full range of musical performances of artistic excellence.

The Corporation has adopted the following Mission Statement: The Charlotte Symphony uplifts, entertains, and educates the diverse communities of Charlotte-Mecklenburg and beyond through exceptional musical experiences.

**ARTICLE II- OFFICES**

Section 2.1 **Principal Office.** The principal office of the Corporation shall be located in Charlotte, Mecklenburg County, North Carolina.

Section 2.2 **Registered Office.** The registered office of the Corporation required by law to be maintained in the State of North Carolina may be, but need not be, identical with the principal office.

Section 2.3 **Other Offices.** The Corporation may have offices at such other places, either within or outside the State of North Carolina, as the affairs of the Corporation may require from time to time and as the Board of Directors of the Corporation (hereinafter, the “Board of Directors”) may designate.

**ARTICLE III- VOTING; MEETINGS**

Section 3.1 **Voting Rights.** Directors who meet the voting eligibility requirements set forth in these Bylaws shall have the right to vote for Director nominees to fill the positions of those Directors whose terms expire at the end of the current fiscal year of the Corporation. Any additional Directors nominated by the Governance and Nominating Committee of the Board of Directors as necessary to fill any vacancies (See Section 4.5) shall be elected by the Board of Directors. Directors shall also have the right to vote upon any other matters submitted for a vote. Each Director shall be entitled to one vote upon any matter submitted for a vote. Directors may not vote by proxy.

Section 3.2 **Place of Meetings.** All meetings of Directors shall be held at the principal office of the Corporation or at such other place, either within or outside the State of North Carolina, as shall be designated in the notice of the meeting.

Section 3.3 **Annual Meeting.** The Annual Meeting of the Corporation shall be held between April 1 and June 30 of each year, at such time as the Board of Directors shall designate, for the purpose of electing Directors of the Corporation or for the transaction of such other business as may be appropriate.

Section 3.4 **Substitute Annual Meeting.** If the Annual Meeting shall not be held within the dates designated in these Bylaws, a substitute annual meeting may be called in accordance with the provisions of these Bylaws. A meeting so called shall be designated and treated for all purposes as the Annual Meeting.

Section 3.5 **Regular Meetings.** Directors shall meet at least four (4) times per fiscal year at regular intervals as determined by the Chairperson of the Board of Directors at the beginning of each fiscal year.

Section 3.6 **Special Meetings.** Special meetings of the Directors may be called at any time by the Chairperson of the Board of Directors or by any group of Directors consisting of at least fifteen percent (15%) of the total number of Directors, for the purpose of electing Directors of the Corporation or for the transaction of such other business as set forth in the notice to Directors of such meeting.

Section 3.7 **Notice of Meetings.** Written or printed notice stating the place, day and hour of the meeting of Directors shall be delivered (including by email or other electronic means) or mailed not less than ten (10) before the date thereof, either personally or by mail, at the direction of the Chairperson of the Board of Directors or other Officer calling the meeting, to each Director entitled to vote at such meeting. Attendance of any Director at a meeting without protesting the lack of proper notice of such meeting prior to or upon the commencement of such meeting shall be deemed to be a waiver of notice of such meeting.

Section 3.8 **Quorum for Meetings of all Directors.** One third (1/3) of the number of Directors shall constitute a quorum for the transaction of business at any meeting of the Directors. If a quorum is not present at any meeting of the Directors, a majority of the Directors present at such meeting may adjourn the meeting from time to time without further notice. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the original meeting.

Section 3.9 **Removal of Director or Member of Board of Trustees.** The Board of Directors may elect to remove any Director or any Trustee.

#### ARTICLE IV- **BOARD OF DIRECTORS; BOARD OF TRUSTEES**

Section 4.1 **General Powers and Expectations of the Board of Directors.** All corporate powers of the Corporation shall be exercised by or under the authority of, and the business and affairs of the Corporation shall be managed under the direction of, the Board of Directors. The roles and responsibilities of a Director shall include the following:

(a) To endeavor to build and maintain for Charlotte a symphony orchestra of the highest artistic standards commensurate with sound financial policies;

(b) To attend meetings of the Board of Directors on a regular basis. Any Director who misses three (3) consecutive meetings of the Board of Directors, or more than fifty percent (50%) of the meetings of the Board of Directors in a fiscal year, shall be removed automatically from the Board of Directors, provided that such automatic dismissal may be waived or voided in the event that the Board of Directors determines that such dismissal would be inequitable given exigent circumstances experienced by a Director;

(c) To provide leadership and actively participate in the work of standing and ad hoc committees;

(d) To contribute financially to the Corporation on an annual basis and at a minimum level as set by the Board of Directors;

(e) To actively participate in the efforts of the Board of Directors to raise the funds required to operate the orchestra on a high artistic level;

(f) To support the concerts and sponsored functions of the orchestra, and to represent its needs and objectives in the community, including subscribing to at least one concert series;

(g) To refrain from committing an offense resulting in an indictment or conviction for a felony or crime involving moral turpitude, any material violation of federal or state law, or a material Corporation policy (including any violation of the Corporation's or any of its subsidiaries' alcohol, drug abuse or sexual harassment and sexual misconduct policies) or any activities that create circumstances that embarrass or reflect poorly on the reputation of the Corporation.

#### Section 4.2 **Number, Terms and Qualifications of the Board of Directors.**

(a) **Election of At Large Directors.** Directors shall elect one (1) new Class of Directors at each Annual Meeting of the Corporation in replacement of the Class whose term is expiring, with such adjustments made to the number of Directors to be elected as recommended by the Governance and Nominating Committee, based on available, qualified candidates and the objective of maintaining at all times a Board of Directors consisting of fifteen (15) to twenty-four (24) elected Directors. The term of office of each elected Director of each Class shall be for three (3) years, expiring at the end of the third full fiscal year following election; *provided* that in the event a Director is elected to the Board on a date other than July 1 of the year in question, that Director's first term will be three full fiscal years plus that portion of the year in which the Director was elected; *provided further*, that the Board shall endeavor, whenever practicable and convenient, to elect new Directors such that a new Director's first term commences on July 1 of the year in which they are elected. By way of illustration:

- i. A Director elected to the Board on July 1, 2030, would have a first term expiring on June 30, 2033; and
- ii. A Director elected to the Board on February 23, 2030, would have a first term expiring on June 30, 2033.

The term of one Class of Directors will expire, and the new Class of Directors elected at the prior most recent Annual Meeting will commence, at the end of each fiscal year of the Corporation. At all times, the number of elected Directors shall be not less than fifteen (15) or more than twenty-four (24). A Director shall cease to serve as such and his position shall be deemed vacant upon his death, resignation, removal or disqualification.

(b) **Ex Officio Directors.** Incumbents of the following offices or positions shall be voting (unless otherwise indicated expressly) Ex Officio Directors:

- i. President & Chief Executive Officer;
- ii. Music Director;
- iii. Immediate-Past Chairperson;
- iv. President of the Symphony Guild of Charlotte, Inc.;
- v. Musicians of the Charlotte Symphony Orchestra elected by musician Members of the orchestra and as determined by the Collective Bargaining Agreement (“CBA”) then in effect; and
- vi. President of the Charlotte Master Chorale.

Section 4.3 **Change in Number of Directors.** At any meeting of the Board of Directors, the Board of Directors may increase or decrease the number of Directors on the Board of Directors by the vote of a majority of the then Board of Directors.

Section 4.4 **Term Limits for Directors.** No Director shall be eligible to serve more than two (2) consecutive terms (as described in Section 4.2 (a)) unless such Director shall have ceased to be a Director for at least (1) year, provided, however, that the Chairperson of the Board of Directors shall be eligible to continue to serve until completing one (1) year as Immediate-Past Chairperson.

Section 4.5 **Vacancies.** Any vacancy occurring in the Board of Directors may be filled by vote of the Board of Directors, as soon as practicable, regardless of when the vacancy occurs as defined by Section 4.2(a).

Section 4.6 **Compensation.** No Director shall receive compensation for services as a Director.

Section 4.7 **Manner of Acting.** Except as otherwise provided in these Bylaws or the North Carolina Non-Profit Corporation Act, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 4.8 **Organization.** Each meeting of the Board of Directors shall be presided over by the Chairperson of the Board of Directors, and in the absence of the Chairperson of the Board of Directors by a Vice Chairperson or Immediate-Past Chairperson. In the absence of the Chairperson, Vice Chairperson(s) and Immediate-Past Chairperson, the President and CEO shall preside as Chairperson of the Meeting. The Secretary or, in the Secretary’s absence, any person designated by the Chairperson of the Meeting, shall act as Secretary of the Meeting.

Section 4.9 **Presumption of Assent.** A Director of the Corporation who is present at a meeting of the Board of Directors at which action on any matter is taken shall be presumed to have assented to the action taken unless their contrary vote is recorded or their dissent is otherwise entered in the minutes of the meeting, or unless they shall file a written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof. Such right to dissent shall not apply to a Director who voted in favor of such action.

Section 4.10 **Informal Action by Directors.** Action taken by a majority of the Directors or members of a Committee without a meeting is nevertheless Board of Directors or Committee action if a written consent to the action in question is signed by all of the Directors or members of the Committee, as the case may be, and filed with the minutes of the Board of Directors or Committee, whether done before or after the action so taken. Such written consent may be obtained by electronic means, and an electronic confirmation of consent shall be deemed to be written.

Section 4.11 **Telephone and Video Attendance at Meetings.** Any one or more Directors may participate in a meeting of the Board of Directors or of a Committee of the Board of Directors by means of a telephone, video or similar communications device which allows all persons participating in the meeting to hear each other, and such participation in a meeting shall be deemed presence in person at such meeting.

Section 4.12 **Board of Trustees.**

The Governance and Nominating Committee shall nominate, and the Board of Directors shall have the authority to designate, a Board of Trustees. The term of each member of the Board of Trustees shall be the fiscal year of the Corporation. There shall be no specified limit on the number of Trustees which may be appointed or serving at any given time. Trustees shall not have any fiduciary duties of a Director and shall not have any authority to exercise the corporate powers of the Corporation but shall provide advisory and support services to the Board of Directors. Trustees may serve on one or more Committees of the Board of Directors as appointed from time to time by the Chairperson of the Board of Directors with the agreement of the President and Chief Executive Officer. The Chairperson of the Board of Directors shall appoint the Chairperson of the Board of Trustees. The roles and responsibilities of a Trustee shall include the following:

- (a) To assist the Board of Directors in their efforts to build and maintain for Charlotte a symphony orchestra of the highest artistic standards;
- (b) To attend meetings of the Board of Trustees;
- (c) To actively participate in each committee of the Board of Directors for which they have been appointed;
- (d) To contribute financially to the Corporation on an annual basis and at a minimum level as determined by the Board of Directors;
- (e) To actively participate in the efforts of the Board of Directors to raise the funds required to operate the orchestra on a high artistic level;
- (f) To support the concerts and sponsored functions of the orchestra as a subscriber to at least one concert series.

Section 4.13 **Meetings of Board of Trustees.** The Board of Trustees shall meet at least two (2) times per fiscal year. The Board of Directors and the Board of Trustees may hold joint meetings up to two times per year as necessary to carry out the goals of the CSO. Special Meetings of the Board of Trustees may be called by the Chairperson of the Board of Directors. All meetings of the Board of Trustees shall be held upon notice of the time and place thereof, given to each Trustee at least five (5) days before the meeting by any usual means of communication. Each

meeting of the Board of Trustees shall be presided over by the Chairperson of the Board of Trustees, and in the absence of the Chairperson of the Board of Trustees by the Chairperson of the Board of Directors. In the absence of the Chairperson of the Board of Directors, the President and CEO shall preside as Chairperson of the Meeting.

## ARTICLE V- **OFFICERS**

Section 5.1 **Officers of the Corporation.** The Officers of the Corporation shall consist of:

- i. Chairperson of the Board of Directors;
- ii. Up to two (2) Vice Chairperson(s) of the Board of Directors;
- iii. Immediate-Past Chairperson of the Board of Directors;
- iv. President and Chief Executive Officer;
- v. Treasurer;
- vi. Secretary; and
- vii. such other Officers as the Board of Directors may from time to time elect.

Section 5.2 **Qualifications.** All Officers of the Corporation other than President and Chief Executive Officer shall be elected from the Board of Directors.

Section 5.3 **Election and Terms.** Unless otherwise indicated expressly in these Bylaws, Officers of the Corporation may be elected by the Board of Directors at its annual meeting or another designated meeting to serve during the immediately following fiscal year of the Corporation and until his successor shall have been duly elected and qualified. Any Officer may be re-elected for any additional term without any restriction as to the number of terms which may be served consecutively. A person serving as Vice Chairperson of the Board of Directors may be elected to succeed to the office of Chairperson of the Board of Directors once the then-current Chairperson is no longer serving as Chairperson. Upon completion of the last term of a Chairperson, such Chairperson shall become, without need for further election by the Board of Directors, the Immediate-Past Chairperson, and such Immediate-Past Chairperson shall serve a one-year term.

Section 5.4 **Vacancies.** Any vacancy in any office because of death, resignation, removal, disqualification or otherwise may be filled by the vote of the Board of Directors as soon as practicable for the unexpired portion of the term.

Section 5.5 **Roles and Responsibilities of Officers.**

(a) **Chairperson of the Board of Directors.** The Chairperson of the Board of Directors shall preside at all meetings of the Board of Directors and the Executive Committee. The Chairperson of the Board of Directors shall have such additional duties as the Board of Directors may from time to time determine and shall present an annual report to the Board of Directors, reviewing the season ended and forecasting matters relating to the season approaching. The Chairperson of the Board of Directors may be succeeded in office by a Vice Chairperson of the Board of Directors.

(b) **Vice Chairperson(s) of the Board of Directors.** The Vice Chairperson(s) of the Board of Directors shall have and shall exercise all of the powers of the Chairperson of the Board of Directors in case of the inability of the Chairperson of the Board of Directors to preside or to act and shall have such additional duties as the Board of Directors may from time to time determine.

(c) **Immediate-Past Chairperson of the Board of Directors.** The Immediate-Past Chairperson of the Board of Directors shall have and shall exercise all of the powers of the Chairperson of the Board of Directors in case of the inability of the Chairperson of the Board of Directors and the Vice Chairperson(s) of the Board of Directors to preside or act and shall have such additional duties as the Board of Directors may from time to time determine.

(d) **President and Chief Executive Officer.** The President and Chief Executive Officer is a full-time employee of the Corporation engaged by the Board of Directors who shall formulate and carry out business policies approved by the Board of Directors, and enter into all contracts required for the normal course of business of the Corporation.

(e) **Treasurer.** The Treasurer:

- i. shall supervise receipt and keeping of the funds of the Corporation and the disbursement of the same under the direction of the Board of Directors by means of checks signed or electronic fund transfers executed by such Officer or Officers or such employee or employees of the Corporation as shall be from time to time be designated by the Board of Directors;
- ii. shall supervise custody and oversee maintenance of accurate financial records of the Corporation;
- iii. shall supervise custody and safekeeping of all assets of the Corporation and the investment of current and operating reserve funds of the Corporation;
- iv. prior to each Board of Directors meeting, along with the President and Chief Executive Officer and other employees of the Corporation responsible for financial and accounting matters, shall supervise a review of financial statements of the Corporation prepared on an accrual basis; make appropriate inquiries to determine the adequacy of such information insofar as it relates to past operations and to projected operations; and
- v. in general, shall perform all duties incident to the functions of a Treasurer, and such other duties as may be prescribed from time to time by the Chairperson of the Board of Directors or the Board of Directors.

The Corporation's books shall be open at all times to the inspection of the Board of Directors and the Treasurer shall make a full financial report at each Annual Meeting of the Board of Directors, and shall make such other reports to the Board of Directors as may be required by it from time to time. The Treasurer may discharge their duties by acting through the Finance Committee or the administrative staff of the Corporation.

(f) **Secretary.** The Secretary:

- i. shall ensure that accurate minutes and records are kept of the actions and proceedings of the Board of Directors and the Executive Committee;
- ii. shall give or cause to be given all notices required by law or these Bylaws;

- iii. shall have general charge of the corporate books and records and the corporate seal and shall affix the corporate seal to any lawfully executed instrument requiring it;
- iv. shall sign such instruments as may require the Secretary's signature; and
- v. in general, shall perform all duties incident to the functions of a Secretary, and such other duties as may be prescribed from time to time by the Chairperson of the Board of Directors or the Board of Directors.

## ARTICLE VI- COMMITTEES

Section 6.1 **Committees.** The Board of Directors, by resolution adopted by a majority of the Directors in office, shall designate annually the following committees:

- (a) **Executive Committee.** The Executive Committee shall be comprised of:
  - i. the Chairperson of the Board of Directors, who shall act as the Chairperson of the Executive Committee;
  - ii. either the Immediate-Past Chairperson or Vice-Chairperson/s or both (as determined in the discretion of the Chairperson of the Board of Directors);
  - iii. the Treasurer;
  - iv. the Secretary;
  - v. the Chairperson of the Development Committee;
  - vi. the President and Chief Executive Officer;
  - vii. the Chairperson of the Governance and Nominating Committee; and
  - viii. a maximum of two (2) at large members appointed by the Chairperson of the Board of Directors.

The Executive Committee shall meet at such time or times as the Chairperson shall designate. Between meetings of the Board of Directors and subject to such limitations as may be required by law or imposed by resolutions of the Board of Directors, the Executive Committee shall have and may exercise all of the authority of the Board of Directors in the management of the Corporation in the event of an emergency situation requiring immediate action wherein assembling the entire Board of Directors would be impossible or impracticable; provided, however, that neither the Executive Committee nor any other Committee of the Board of Directors shall have authority as to the following matters: (i) authorize distributions; (ii) approve dissolution, merger or the sale, pledge or transfer of all or substantially all of the Corporation's assets; (iii) elect, appoint or remove Officers or Directors or fill vacancies on the Board of Directors or any of its Committees; (iv) adopt, amend or repeal the Articles of Incorporation or Bylaws; (v) adopt the Corporation's Annual Budget; (vi) cause the Corporation to incur indebtedness or sell or dispose of real estate or other tangible property. In the event that minutes are taken of any meetings of the Executive Committee, such minutes shall be retained in a secure and confidential location in the principal office of the Corporation by the Secretary. The Executive Committee may establish its own rules and procedures, and a majority of the members of the Executive Committee shall constitute a quorum.

(b) **Governance and Nominating Committee.** The Chairperson of the Governance and Nominating Committee shall be a Director appointed by the Chairperson of the Board. At meetings of the Committee, a quorum for the transaction of business shall consist of a simple

majority of the members of the Committee. The primary role and responsibilities of the Governance and Nominating Committee are to:

- i. nominate Officers, Directors and Trustees;
- ii. recommend policies for Board of Directors' membership standards and evaluation of Directors;
- iii. assess the performance of the Board of Directors and make recommendations regarding such performance;
- iv. review the Corporation's conflict of interest policies, and codes of conduct and ethics, if any;
- v. review periodically the Corporation's Bylaws; and
- vi. review, at a minimum annually, key Corporation personnel.

The Governance and Nominating Committee shall submit each year a slate of candidates for Directors and Officers. In making such submission, the Committee shall consider the ability of a nominee to carry out the duties of a Director or an Officer as described in these Bylaws. Directors whose terms are expiring may be nominated for further services if eligible pursuant to these Bylaws, but only upon the determination of the Committee, taking into consideration that such Directors have carried out their duties as described in these Bylaws in such a manner as to warrant their continued services as a Director.

(c) **Finance and Audit Committee.** The Treasurer shall be the Chairperson of the Finance and Audit Committee. The primary expectation of the Committee is to provide financial oversight to the Corporation in connection with the annual audit of the Corporation's financial statements by the Corporation's auditors. Such financial statements shall be presented to the Board of Directors for approval. In addition, the Committee will oversee the preparation of IRS Form 990 and share the results thereof with the Board of Directors. Also, the Committee will maintain oversight of the Corporation's whistleblower policy and document retention and destruction policies. In addition, the Committee shall be responsible for assisting in the developing of the annual budget of the Corporation and to include the budgets of any supporting organizations. Such budgets shall be presented to the Board of Directors for approval. The Committee shall further monitor, evaluate and advise on the financial management of the Corporation, and the Board may amend the budget from time to time during the fiscal year as circumstances may require.

(d) **Development Committee.** There shall be at least one standing fundraising committee of the Board of Directors, to oversee and actively assist in the discharge of the related responsibilities of the Board, as set out in paragraph 4.1.(d)-(f) and the responsibilities of the Trustees set out in paragraph 4.12.(d)-(f). The Chairperson of the Development Committee shall be a Director appointed by the Chairperson of the Board. The Chairperson of the Development Committee shall be a member of the Executive Committee.

Section 6.2 **Other Defined Committees.** Special *ad hoc* defined committees may be appointed by the Chairperson of the Board of Directors from time to time as circumstances may require. The chairpersons of such committees and the members of all committees shall be appointed by the Chairperson of the Board of Directors with the agreement of the President and Chief Executive Officer.

## ARTICLE VII- MUSIC DIRECTOR

Section 7.1 **Music Director.** The Board of Directors shall engage a Music Director who shall formulate and carry into effect musical policies and programming approved by the Board of Directors.

## ARTICLE VIII- INDEMNIFICATION GENERAL PROVISIONS

### Section 8.1 **Indemnification.**

(a) Except as provided in Section 8.1(d), the Corporation shall indemnify an individual made a Party to a Proceeding because the individual is or was a Director against Liability incurred in the Proceeding if the individual (i) conducted himself or herself in good faith; (ii) reasonably believed (A) in the case of conduct in his or her Official Capacity with the Corporation, that his or her conduct was in its best interests, and (B) in all other cases, that his or her conduct was at least not opposed to the Corporation's best interests; and (iii) in the case of any criminal Proceeding, had no reasonable cause to believe his or her conduct was unlawful.

(b) A Director's conduct with respect to an employee benefit plan for a purpose the Director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of Section 8.1(a)(ii)(B).

(c) The termination of a Proceeding by judgment, order, settlement, conviction or upon a plea of no contest or its equivalent is not of itself determinative that the Director did not meet the standard of conduct set forth in Section 8.1(a).

(d) The Corporation shall not indemnify a Director in connection with a Proceeding by or in the right of the Corporation in which the Director is adjudged liable to the Corporation or in connection with any other Proceeding charging improper personal benefit to the Director, whether or not involving action in his or her Official Capacity, in which the Director was adjudged liable on the basis that personal benefit was improperly received by the Director.

(e) Indemnification hereunder in connection with a Proceeding by or in the right of the Corporation that is concluded without a final adjudication on the issue of Liability is limited to reasonable Expenses incurred in connection with the Proceeding.

(f) The authorization, approval or favorable recommendation by the Board of Directors of indemnification as authorized hereunder shall not be deemed an act or corporate transaction in which a Director has a conflict of interest and no such indemnification shall be void or voidable on such ground.

Section 8.2 **Right to Indemnification under N.C. Gen. Stat. Section 55A-8-52.** The Corporation shall indemnify a Director who is wholly successful, on the merits or otherwise, in the defense of any Proceeding to which the Director was a Party because he or she is or was a director of the Corporation against reasonable Expenses actually incurred by the Director in connection with the Proceeding.

Section 8.3 **Advances under N.C. Gen. Stat. Section 55A-8-53.** Expenses incurred by a Director in defending a Proceeding shall be paid by the Corporation in advance of the final disposition of the Proceeding upon receipt of an agreement by or on behalf of the Director to

repay such amount unless it is ultimately determined that the Director is entitled to be indemnified by the Corporation against such Expenses.

**Section 8.4 Determination and Authorization of Indemnification under N.C. Gen. Stat. Section 55A-8-55.**

(a) The Corporation shall not indemnify a Director under Section 8.1 unless authorized in the specific case after a determination has been made that indemnification of the Director is permissible in the circumstances because the Director has met the standard of conduct set forth in Section 8.1.

(b) The determination contemplated by Section 8.4(a) shall be made:

- i. By the Board of Directors by a majority vote of a quorum consisting of Directors not at the time Parties to the Proceeding;
- ii. If such a quorum cannot be obtained, by a majority vote of a committee duly designated by the Board of Directors (in which designation directors who are Parties may participate), consisting solely of two (2) or more Directors not at the time Parties to the Proceeding; or
- iii. If the foregoing two (2) methods of determination cannot be made, then by special legal counsel: (A) selected by the Board of Directors or its committee in the manner prescribed in clause i or clause ii above; or (B) if a quorum of the Board of Directors cannot be obtained under clause i above and a committee cannot be designated under clause ii above, then selected by a majority vote of the full Board of Directors (in which selection directors who are Parties may participate).

(c) Authorization of indemnification and evaluation as to reasonableness of Expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of Expenses shall be made by those entitled to select counsel hereunder.

**Section 8.5 Indemnification of Officers Under N.C. Gen. Stat. Section 55A-8-56.**  
An Officer of the Corporation is entitled to indemnification under this subsection to the same extent as a Director. The Corporation shall advance Expenses to an Officer of the Corporation to the same extent the Corporation is required to advance Expenses under this Article VIII to a Director.

**Section 8.6 Insurance.** The Corporation shall have the power to purchase and maintain insurance to indemnify the Corporation for any obligation which it incurs as a result of its indemnification of Directors and Officers to this Article VIII, or to indemnify such persons in instances in which they may be otherwise indemnified under this Article VIII. In addition, the Corporation shall have the power to purchase and maintain insurance on behalf of the Officers, Directors and former Officers and Directors against any liability or settlement based on asserted liability incurred by them by reason of being or having been Officers or Directors or former Officers or Directors of the Corporation, whether or not the Corporation would have the power

to indemnify them against such liability or settlement under this Article VIII or the provisions of the North Carolina Non-Profit Corporation Act.

Section 8.7 **Definitions.** For purposes of this Article VIII, (a) each of the terms “Expenses,” “Liability,” “Official Capacity,” “Party” and “Proceeding” shall have the meaning ascribed to such term in N.C. Gen. Stat. Section 55A-8-50; (b) the term “Director” shall be deemed to include all individuals who are included in the definition of “Director” under N.C. Gen. Stat. Section 55A-8-50; and (c) “Director,” “Officer” includes, unless the context requires otherwise, the estate or personal representative of a person who acted in that capacity.

## ARTICLE IX- GENERAL PROVISIONS

Section 9.1 **Fiscal Year.** The fiscal year of the Corporation shall begin on the first day of July in each year and end on the last day of June in the immediately following year.

Section 9.2 **Independent Audit.** The accounts of the Corporation shall be audited by an independent certified public accountant appointed by the Board of Directors at the end of each fiscal year and at such other times as the Board of Directors deems appropriate.

Section 9.3 **Auxiliary and Affiliated Organizations.** The Board of Directors may establish, authorize or terminate auxiliary organizations for the Corporation, whether operating as a separate not-for-profit corporation or as an agency of the Corporation, as it may deem appropriate. Subsidiary organizations shall be subject to such conditions and periodic review as the Board of Directors may from time to time determine, and the budgets and bylaws of the auxiliary organizations shall be subject to Board of Directors approval.

Section 9.4 **Amendments.** These Bylaws may be amended or repealed and new Bylaws may be adopted by the affirmative vote of two-thirds (2/3) of the total number of Directors then in office present at any regular or special meeting of the Board of Directors provided written notice of such proposed amendment shall be given to the Directors at least ten (10) days before such meeting.

Section 9.5 **Seal.** The corporate seal of the Corporation shall be in the circular form with the name of the Corporation imprinted around the perimeter, and inside the perimeter the words “SEAL, INCORPORATED, 1934”. The seal may be used by causing it or a facsimile thereof to be impressed, affixed, stamped or reproduced by any means.

### Section 9.6 **Records.**

(a) The Corporation shall keep, as permanent records, minutes of all meetings of its Board of Directors, and a record of all actions taken by the Directors without a meeting; and may keep a record of all actions taken by committees of the Board of Directors.

(b) The Corporation shall maintain appropriate accounting records.

(c) The Corporation, or its agent, shall maintain a record of its Directors and Trustees, in a form that permits preparation of a list of their names and addresses in alphabetical order.

(d) The Corporation shall maintain its records in written form or in another form capable of conversion into written form within reasonable time.

(e) The Corporation shall keep a copy of the following records in a secure location at its principal office:

- i. its Articles of Incorporation or Restated Articles of Incorporation and all amendments to them currently in effect;
- ii. its Bylaws, or Restated Bylaws and all amendments to them currently in effect;
- iii. its Resolutions relating to the number or classification of Directors or to the characteristics, qualifications, rights, limitations and obligations of Directors, Trustees or any class or category thereof;
- iv. the minutes of all Board of Directors meetings and, as appropriate, Executive Committee meetings for the past three (3) years;
- v. a list of the names and businesses or home addresses of its current Directors and Officers.

Section 9.7 **Interpretation.**

References herein to a person, corporation, partnership or other entity shall include references to that person's, corporation's etc.'s lawful successors and permitted assigns.

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