

Approved by Board vote June 27, 2022

**BYLAWS OF  
PINEWOODS MONTESSORI SCHOOL**

**ARTICLE I  
NAME AND OFFICES**

**SECTION 1: NAME.** The name of the corporation shall be **Pinewood Montessori School Corporation** (hereafter, the “Corporation” or “School”).

**SECTION 2: PRINCIPAL OFFICE.** The principal office shall be in Orange County, North Carolina.

**SECTION 3: REGISTERED OFFICE.** The Corporation's registered office required by law to be maintained in the State of North Carolina may be, but need not be, identical to the principal office. The Board of directors (“Board”) may change the address of its registered office from time to time.

**SECTION 4: OTHER OFFICES.** The Corporation may, from time to time, have offices at such places, either within or outside the State of North Carolina, as the Board may designate or as the Corporation's business may require.

**ARTICLE II  
PURPOSES**

The Corporation is organized exclusively for charitable purposes to support the educational activities of the School and any related educational activities, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

**ARTICLE III  
MEMBERSHIP**

The Corporation shall have no members.

**ARTICLE IV  
BOARD OF DIRECTORS**

**SECTION 1: GENERAL DUTIES.** The Board of Directors is generally responsible for developing, supporting, and promoting the School’s mission, crafting its strategic goals, providing fiscal and legal oversight, establishing policy, and monitoring its overall success. The Board shall appoint, employ, supervise, and replace, as necessary, the Head of School and shall review the Head of School’s annual performance.

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**SECTION 2: NUMBER AND QUALIFICATIONS.**

- (a) The Board shall be composed of a minimum of five (5) and a maximum of thirteen (13) voting members; the total number shall generally be an odd number to allow for a majority vote, except in temporary circumstances involving incapacity, resignation, or removal of a member.
- (b) The Board members in the spring, by resolution, are responsible for setting forth the number of Board seats for the coming year.
- (c) The Head of School shall be a de facto voting board member; however, the Head of School shall not participate in deliberations or vote on any matter involving an actual, potential, or apparent conflict of interest under the Board's Conflict of Interest policy, except as otherwise approved by a two-thirds vote of remaining Voting Members present at any meeting for which a quorum is present.
- (d) All members, annually, must review and sign the Board's Conflict of Interest policy and Confidentiality Agreement and must be eligible to serve by the guidelines outlined in those policy documents.
- (e) Members of the Board shall be at least twenty-one (21) years of age, be of sound mind and moral character, and be committed to supporting the School's Montessori philosophy of education.

**SECTION 3: ELECTION AND TERM.**

- (a) Board members (except the Head of School) shall serve a three-year term but are eligible for re-election to another three-year term. No member may serve more than two full consecutive terms (six years) but may be re-elected after rotating off the board for at least one year.
- (b) The board members' terms will be evenly staggered, to the extent feasible, over a three-year period to maintain maximum continuity of membership from year-to-year.
- (c) The Board shall endeavor to identify, recruit, and nominate a talented and diverse group of board member candidates.
- (d) The current Board of Directors shall determine the desired qualifications for new Board members.
- (e) On an annual basis, the Board will notify the school community (including parents and guardians of students in the school and staff members) of Board openings. Any individual interested in being considered for nomination may notify the Head of School and Chair of the Board for consideration by the Board or the appropriate Board committee.
- (f) Employees of Pinewoods Montessori School and other individuals receiving substantial compensation from the School are not eligible for Board of Director positions, except the Head of School.
- (g) The Board of Directors shall approve persons nominated to serve on the Board in time to circulate a ballot to the Board of Directors. The Board of Directors may vote for or withhold

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their vote for any Board candidate via confidential ballot. Those nominees who receive the highest number of votes of a majority of the Board shall be elected to serve terms of up to three years. Emeritus Board members or other board guests are not eligible to vote in Board elections.

- (h) Board member terms generally conclude and are vacated in June of each year. New Board member terms typically begin in July.
- (i) Except for the Head of School, new Board Members shall typically be elected at the last meeting of the fiscal year to begin service at the first meeting of the following fiscal year. Elections of board members during a term (e.g., to replace another board member) may be elected at any regular or special meeting of the Board.

**SECTION 4: DIRECTORS EMERITI.** The Board may invite any former, inactive Board Director (“Directors Emeriti”) to participate in Board meetings and functions as a non-voting participant. The Board Chairperson appoints such persons to serve on Board committees, and s/he may be called upon to assist the Board in other matters where their interests, experience, and expertise can best serve PWMS.

An Emeritus Director is usually a former board member who is invited as a non-voting member in an advisory capacity. This is an honorific title to recognize the member's active participation, financial contribution, or continuing strong interest in the organization. Directors Emeriti will not be present for final deliberations and voting.

- (a) A Board member who has served two full terms on the Board of Directors and who has rendered meritorious service during his/her/their tenure is eligible for nomination as Trustee Emeritus upon leaving the Board.
- (b) Election to Emeritus Director status is by a majority vote of the Board upon recommendation of the Executive Committee (if the Executive Committee is active).
- (c) Policies and procedures detailing specifics of Directors Emeriti may be found in the Board Manual.

**SECTION 5: REMOVAL.** The Board may remove any Board member with or without cause upon a two-thirds vote of current members.

**SECTION 6: RESIGNATION.** Except as otherwise provided by law, including the fiduciary duties owed by Board members to PWMS, a Board member may resign by giving notice in writing to the Chairperson or Secretary of the Board. The resignation is effective when communicated unless the notice specifies a later effective date or subsequent event upon which it will become effective.

**SECTION 7: ABSENCES.** A Board member who has three unexcused absences from Board meetings in a year will be resigned. If a Board Member requires a Leave of Absence, please refer to the relevant Board Policy.

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**SECTION 8: NO COMPENSATION.** Except for the Head of School, Board members shall serve without any compensation for their services to the Board. The reimbursement of expenses incurred by any Board member in the performance of official business for the School may be reimbursed by applicable School policies and procedures.

## **ARTICLE V BOARD OF DIRECTORS MEETINGS**

**SECTION 1: ANNUAL MEETING.** The date of a regular annual meeting(s) shall be set by the Board of Directors, who shall also set the time and place. The purpose of this meeting(s) should be: to have an annual review of previous and future strategic plans for the school (when applicable), to review current Board policies and programs, to update long-range goals (as needed), and to establish membership needs of Board member positions available for the following school year.

**SECTION 2: ATTENDANCE BY REMOTE COMMUNICATION.** Any or all directors may participate in a meeting by any electronic means by which all directors participating in the meeting may simultaneously hear each other during the meeting. A director participating in a discussion by this means is deemed present in person at the meeting.

**SECTION 3: QUORUM.** Except as otherwise provided by law, the Corporation's articles of incorporation, or these bylaws, a quorum of the Board consists of a majority of the Voting Members in office immediately before a meeting begins. In no event may these bylaws or any resolution adopted under these bylaws authorize a quorum of fewer than one-third of the number of directors then in office, except in emergencies requiring action by a majority of the available Board members for the good of the Corporation, and only after reasonable efforts to notify and convene all Board members.

**SECTION 4: REGULAR MEETINGS.** The Board shall hold all other meetings at such times as the Chairperson or his designee determines unless otherwise required by law or these bylaws.

**SECTION 5: SPECIAL MEETINGS.** Special meetings of the Board for a specific purpose may be called at any time by its Chairperson or by the request of at least two (2) Board Members. The particular purpose must be stated in the notice, and no other business shall be transacted at the special meeting. Unless laws or these bylaws do not require actual notice to validate the directors' actions at any such special meeting, notice must be given not less than forty-eight (48) hours before any special meeting. Such notice may be provided by any usual means of communication. The Board shall meet at a place and time determined by the Chairperson.

**SECTION 6: EMERGENCY MEETINGS.** The Board may meet on less than 24 hours notice in emergencies and shall only conduct business related to the purpose of such meeting.

**SECTION 7: PUBLIC MEETINGS.** The Board shall determine if and when to open any Board meeting, or portion thereof, to the whole or any part of the School community.

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**SECTION 8: MANNER OF ACTING.** Except as otherwise provided in these bylaws, actions by the majority of the Board members present at a properly held meeting shall be the acts of the Board.

**SECTION 9: PRESUMPTION OF ASSENT.** A Board member present at a meeting at which action is taken shall be presumed to have assented to the action taken unless their contrary vote of dissent is recorded or otherwise entered into the meeting minutes or unless s/he shall file a written dissent before the meeting adjourns, and such action is made know to all attending Board members.

**SECTION 10: CONDUCTING MEETINGS.** The Chairperson shall cause to be prepared and forwarded to the Board members, before any regular meeting of the Board, an agenda containing the items to be voted upon at the regular meeting. Neither failure of the Chairperson to prepare nor the failure of a member of the Board to receive a copy of the proposed agenda shall affect the validity of any vote taken at such meeting. The Board may consider at any meeting such other business as may properly come before it even though the subject was not listed on the agenda. Board meetings shall be conducted by any rules of order or decorum that allow for orderly, efficient, and effective deliberation.

**SECTION 11: ACTION WITHOUT MEETING.** Board action may be validly taken outside of meetings, according to the following:

- (a) Electronic transmission of signed resolution: The Board may take action based on the electronic receipt of a signed Resolution submitted to the Board Secretary by a majority of its voting members.
- (b) Approval by email: The Board may take action via email or other reasonable electronic means outside of a regular, special, or emergency meeting based on a motion by the Chairperson under the following conditions: (1) the electronic voting is reasonably necessary under the circumstances; (2) the action is approved unanimously by all voting Board members, and (3) the action is reported and votes recorded in the minutes of the next regular meeting of the Board.

## **ARTICLE VI OFFICERS**

**SECTION 1: OFFICERS.** The Officers of the Board are the Chairperson, Vice-Chair, Secretary, and Treasurer. Officers shall serve one-year terms. All officers shall be elected at the Board's annual meeting.

**SECTION 2: CHAIRPERSON.** The Chairperson shall convene regularly scheduled Board meetings and shall preside or arrange for other executive committee members to preside at each meeting in the following order: Vice-Chair, Secretary, and Treasurer.

**SECTION 3: VICE-CHAIRPERSON.** The Vice-Chair will chair committees on particular subjects as designated by the Board and assist the Chair.

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**SECTION 4: SECRETARY.** The Secretary shall be responsible for keeping records of Board actions, including overseeing the taking of minutes at all board meetings, sending out meeting announcements, distributing copies of minutes and the agenda to each Board member, and assuring that corporate records are maintained.

**SECTION 5: TREASURER.** The Treasurer shall work with the Head of School to prepare the annual budget, maintain proper and appropriate records, and provide financial reports and information to the Board as needed.

**SECTION 6: HEAD OF SCHOOL.** The Head of School is an ex officio voting board and standing committee member.

- (a) The Head of School is responsible for the day-to-day operations of the school. Areas of responsibility include faculty and staff, communication with the school community, finances, building and grounds, recruitment of new students, and general administrative duties.
- (b) The Head of School is responsible for hiring and terminating faculty and staff, providing supervision in the classroom, and resolving conflicts with community members.
- (c) The Board, by majority vote, shall employ a Head of School and may modify or repeal any act of the Head of School. In instances where an act of the Head of School is under consideration, the Head of School shall not vote on any motion related to such matter.

**SECTION 6: ASSISTANT OFFICERS.** As may be elected by the Board, assistant secretaries or assistant treasurers shall perform the respective duties of the officer to be assisted in their absence. They shall perform such other duties incident to their office as may properly be required by the Board.

## **ARTICLE VII COMMITTEES**

**SECTION 1: GENERAL PROVISIONS.** Under G.S. §55A-8-25, the Board may create one or more committees and appoint members and non-members to serve on them. The Board shall determine the purpose and authority of each Committee, such as to make recommendations to or act on behalf of the Board. The Board may overturn or modify any action taken by a Committee. Each committee shall have two or more members who serve at the Board's pleasure. Designating any committee or delegation of authority to it shall not relieve the Board or any member of any legally-imposed responsibility or liability. A committee may also be composed of non-board members, especially when they hold particular expertise relevant to the committee's purpose.

**SECTION 2: STANDING COMMITTEES.** The Board may appoint standing committees. Committee member terms shall expire at the time of the first committee meeting following the annual meeting or until successors are appointed. At least one Board member shall serve on each standing committee, and the Chairperson and Head of School shall be ex-officio members of all standing committees. Upon request of the Chairperson, all standing committees shall report their

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activities to the Board. All standing committees shall keep a record of their business and submit such records to the Board upon request.

Standing committees may include the following, subject to modification by Board action:

**Executive Committee.** An Executive Committee shall consist of the School's four officers (Chairperson, Vice-chairperson, Treasurer, Secretary) and the Head of School.

**Finance Committee.** The Finance Committee is chaired by the Treasurer and includes at least two other Board members. The Finance Committee is responsible for:

- (a) developing and reviewing fiscal procedures;
- (b) the long-term financial stability of PWMS, including long-term recommendations for tuition and expenditures;
- (c) fundraising plan (or working in concert with other committees on fundraising);
- (d) drafting the annual budget (for Board vote) with the Head of School;

The committee annually reviews the School's insurance policies or may delegate this review as appropriate. The committee may authorize an audit of the School's financial position by certified public accountants at intervals it shall deem wise. In the event an audit is authorized, the results will be reviewed and presented to the Board.

**Governance and Membership Committee.** This Committee will consist of at least three members, including the Head of School.

(a) Board Member Recruiting, Nominations, and Elections. This Committee shall propose to the Board, annually, candidates for vacancies on the Board. Nominees shall support the School's mission and possess an understanding of the Board's role. Before being added to the ballot, the Committee shall ensure that prospective nominees have reviewed and are willing to abide by the Board's policies, including its Confidentiality Agreement and the Conflict of Interest Policy. This committee shall recommend to the Board procedures for Board evaluation, procedures for orienting new Board members, and procedures for monitoring Board performance.

(b) Legal and Policy Oversight. This committee shall also be responsible for oversight of the Corporation's legal and policy concerns. This includes periodic review, compliance, and development regarding the Corporation's articles of incorporation, bylaws, policies, tax-exempt status, and general legal compliance. This committee should work closely with the school's general counsel to fulfill its responsibilities.

**SECTION 4: STANDING AND OTHER (AD HOC) COMMITTEES.** Standing or other (ad hoc) committees may be designated by a resolution adopted by voting Board members. Each Committee of the Board must include a chair and two (2) or more members, who may consist of individuals who are not active board members.

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The Head of School and Board Chairperson should be made aware of committee meetings and invited, but not required to join.

The Board may delegate to such committees any power or authority of the Board, except the power and authority to adopt, amend or repeal these Bylaws or other powers as may be prohibited by law.

Each committee shall have at least a Chairperson and Secretary appointed by the Chairperson. Standing and ad hoc committees shall make reports and recommendations to the Board in their respective areas of concern.

The membership of other committees, the scope of responsibilities, and the duration of the activity will vary and should be defined by the assigned purpose or goal.

All committees serve at the pleasure of the Board and may be composed of Board members (regular, ex-officio, and emeritus), parents/guardians, PWMS community members, or any others who may be approved to serve.

Committee members shall abide by specific policies, including Confidentiality and Conflict of Interest policies.

Committee terms shall be for one (1) year except as otherwise designated by the Board. The Board may vote to remove and replace any committee member, with or without cause.

Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum, and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

## **ARTICLE VIII CONDUCT STANDARDS**

Directors shall conduct themselves and perform their duties under G.S. 55A-8-30 and as otherwise regulated by law or Board policy or action.

(a) A director shall discharge his duties as a director, including his duties as a committee member:

- (1) In good faith;
- (2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (3) In a manner the director reasonably believes to be in the best interests.

(b) In discharging their duties, a director is entitled to rely on information, opinions,



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reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (1) One or more of the Corporation officers or employees whom the director reasonably believes to be reliable and competent in the matters presented;
- (2) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within their professional or expert competence; or
- (3) A Board committee of which he is not a member if the director reasonably believes the committee merits confidence.

(c) A director is not entitled to the benefit of subsection (b) of this section if he has actual knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (b) of this section unwarranted.

(d) A director is not liable for any action taken as a director or any failure to take action if s/he performed his duties in compliance with this section.

(e) A director's personal liability for monetary damages for breach of duty as a director may be limited or eliminated only to the extent provided in G.S. 55A-8-60 or permitted in G.S. 55A-2-02(b)(4). A director may be entitled to indemnification against liability and expenses under Chapter 55A of the General Statutes, Article 8, Part 5.

(f) A director shall not be deemed a trustee concerning the Corporation or any property held or administered by the Corporation, including, without limit, property that may be subject to restrictions imposed by the property's donor or transferor.

## **ARTICLE IX CONFLICT OF INTEREST**

**SECTION 1: GENERAL PROVISIONS.** Directors shall avoid improper conduct arising from conflicts of interest. They shall abide by all conflict of interest legal requirements, including G.S. 55A-8-31 and any Conflict of Interest Policy adopted by the Board. If any director has or may have a conflict of interest in a matter pending before the Board, such member shall fully disclose to the Board the nature of the conflict or potential conflict. No transaction may be approved if it would constitute self-dealing.

**SECTION 2: STATUTORY REQUIREMENTS.** Board practice regarding conflicts of interest shall be governed primarily by G.S. 55A-8-31, as amended or replaced at any time after these bylaws' adoption. Specific statutory requirements include the following.

(a) A conflict of interest transaction is a transaction with the Corporation in which a director has a direct or indirect interest. A conflict of interest transaction is not voidable by the Corporation solely because of the director's interest in the transaction if any one of the following is true:

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(1) The transaction's material facts and the director's interest were disclosed or known to the Board or a committee, and the Board or committee authorized, approved, or ratified the transaction;

(2) The transaction's material facts and the director's interest were disclosed or known to the members entitled to vote, and they authorized, approved, or ratified the transaction; or

(3) The transaction was fair to the Corporation.

(b) A director has an indirect interest in a transaction if:

(1) Another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction; or

(2) Another entity of which he is a director, officer, or trustee is a party to the transaction, and the transaction is or should be considered by the Board.

(c) For purposes of subdivision (a)(1) of this section, a conflict of interest transaction is authorized, approved, or ratified if it receives a majority vote by members of the Board (or committee if the matter is before such committee) who have no direct or indirect interest in the transaction. A transaction shall not be authorized, approved, or ratified by a single director under this section. If members of the Board (or Committee) who have no direct or indirect interest in the transaction vote to authorize, approve or ratify the transaction, a quorum is present to take action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subdivision (a)(1) of this section if the transaction is otherwise authorized, approved, or ratified as provided in that subdivision.

(d) For purposes of subdivision (a)(2) of this section, a conflict of interest transaction is authorized, approved, or ratified by the members if it receives a majority of the votes entitled to be counted under this subsection. Votes cast by or voted under the control of a director who has a direct or indirect interest in the transaction, and votes cast by or voted under the supervision of an entity described in subdivision (b)(1) of this section shall not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under subdivision (a)(2) of this section. However, the vote of these members is counted in determining whether the transaction is approved under other sections of this Chapter. Whether or not present, a majority of the votes that are entitled to be cast in a vote on the transaction under this subsection constitutes a quorum to take action under this section.

(e) The articles of incorporation, bylaws or a resolution of the Board may impose additional requirements on conflict of interest transactions.

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### **SECTION 3: DEFINITIONS.**

(a) **Interested Person.** Any director, principal officer, or member of a committee with Board-delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

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

(1) An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement,

(2) A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement, or

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

Compensation includes direct and indirect remuneration and gifts or favors that are not insubstantial.

### **SECTION 4: PROCEDURES.**

(a) **Duty to Disclose.** In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be allowed to disclose all material facts to the directors and members of committees with Board-delegated powers considering the proposed transaction or arrangement.

(b) **Determining Whether a Conflict of Interest Exists.** After disclosing the financial interest and all material facts, and after any discussion with the interested person, they shall leave the Board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or committee members shall decide if a conflict of interest exists.

(c) **Procedures for Addressing the Conflict of Interest.**

(1) An interested person may present to the Board or committee meeting. Still, after the presentation, they shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

(2) The Chairperson of the Board, or the committee chair if a committee meeting is appropriate, shall appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

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

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

**(d) Violations of the Conflicts of Interest Policy.**

(1) If the Board or one of its committees has reasonable cause to believe a member has failed to disclose actual or foreseeable conflicts of interest, it shall inform the member of the basis for such belief and allow the member to explain the alleged failure to disclose.

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

**SECTION 5: RECORDS OF PROCEEDINGS.** The minutes of the Board and all committees with Board-delegated powers shall contain:

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

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

**SECTION 6: COMPENSATION.**

(a) A voting member of the Board who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.

(b) A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services

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is precluded from voting on matters pertaining to that member's compensation.

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

## **ARTICLE X MANAGEMENT AND FINANCES**

**SECTION 1: FUNDS.** The Board shall establish such funds as the Board, in its discretion, shall consider desirable to further the purposes. The Board may adopt such rules and policies for establishing and maintaining such funds as the Board may determine necessary, subject to the provisions of the articles of incorporation and these bylaws.

**SECTION 2: ADMINISTRATION.** The Board shall manage and administer in all respects the Corporation's properties and funds by the terms of the articles of incorporation creating the Corporation, the provisions of the bylaws, and all applicable laws, obtaining and securing for such purposes such assistance, office space, force, equipment, and supplies and other aids and facilities, upon such terms as the directors may deem necessary from time to time.

**SECTION 3: INVESTMENTS.** The Board shall hold, use, manage, administer, and, at their discretion, dispose of the properties and collect all incomes, revenues, and profits arising therefrom. The Corporation's funds arising through the receipt and collection of payments, revenues and profits, sale of properties, or otherwise, shall be invested in such properties and investments as may be determined by the Board from time to time to be suitable investments for assets. In making any investment, the Board shall not be limited to such investments as may be legal investments for fiduciaries under any present or future statute, decision, or the rule of law. Still, the Board shall have absolute discretion in determining what properties constitute a suitable investment for any assets, subject to applicable law.

**SECTION 4: REJECTION OF GIFTS.** Any person, firm, or corporation shall have the privilege of making grants to the Corporation at any time by way of gift, devise, bequest, condition, or otherwise, and such additions shall be received, used, and disposed of by the Board according to the articles of incorporation creating the Corporation and any other conditions of the gift; provided, however, that the Board shall have the power to reject any donation, grant, bequest, or devise which in the opinion of the Board is inconsistent with the charitable purposes for which the Corporation was formed or for any other reason it deems sufficient.

**SECTION 5: OTHER POWERS.** The Board shall have and may exercise any other powers which are necessary or desirable to manage and administer the Corporation and the properties and funds thereof and carry out and perform in all respects the Corporation's charitable purposes according to the true intent thereof.

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## **ARTICLE XI CONTRACTS, LOANS, AND DEPOSITS**

**SECTION 1: CONTRACTS.** The Board may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf, and such authority may be general or confined to specific instances.

**SECTION 2: LOANS.** No loans shall be contracted on the Corporation's behalf, and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board. Such authority may be general or confined to specific instances. Under G.S. 55A-8-32, no loan, guaranty, or other form of security shall be made or provided by the Corporation to or for the benefit of its directors or officers.

**SECTION 3: CHECKS AND DRAFTS.** All checks, drafts, or other orders for the payment of money issued in the Corporation's name shall be signed by such Corporate officer or officers, agent, or agents and as shall be determined by resolution of the Board. Endorsements for deposit to the Corporation's credit in any of its duly authorized depositories will be made by the treasurer or any officer or agent whom the Board may approve.

**SECTION 4: DEPOSITS.** All Corporation funds not otherwise employed shall be deposited from time to time to the Corporation's credit in such depositories as the Board may select.

## **ARTICLE XII INDEMNIFICATION OF DIRECTORS, OFFICERS, AND OTHERS**

**SECTION 1: DEFINITIONS.** For purposes of this Article, the following definitions shall apply:

(a) “Act” means the North Carolina Nonprofit Corporation Act, effective July 1, 1994, and all amendments and additions.

(b) “Corporation” means a corporation as defined in Section 55A-8-50(b)(1) of the Act.

(c) “Director” means an individual who is or was a Corporation director or an individual who, while a Corporation director, is or was serving at the Corporation’s request as a director, officer, manager, partner, trustee, employee, or agent of another foreign or domestic Corporation (whether a business or nonprofit Corporation), limited liability company, partnership, joint venture, trust, employee benefit plan, or other enterprise. A director is considered to be serving as a director, officer, manager, partner, trustee, employee, or agent of an employee benefit plan at the Corporation’s request if such director’s duties to the Corporation also impose duties on or otherwise involve services by,

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the director to the plan or participants in or beneficiaries of the plan. “director” includes, unless the context requires otherwise, the estate or personal representative of a director.

(d) “Expenses” means expenses of every kind incurred in defending a Proceeding, including, but not limited to, legal, accounting, expert, and investigatory fees and expenses.

(e) “Indemnified officer” means an individual who is or was an officer appointed by the Board. An indemnified officer shall be entitled to indemnification hereunder to the same extent as a director, including, without limitation, indemnification concerning service by the indemnified officer at the Corporation’s request as a director, officer, manager, partner, trustee, employee, or agent of another foreign or domestic Corporation (whether a business or nonprofit Corporation), limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise. “indemnified officer” includes, unless the context requires otherwise, the estate or personal representative of an indemnified officer.

(f) “Liabilities” means any obligation to pay any or all of the following: a judgment, a settlement, a penalty, a fine (including an excise tax assessed concerning an employee benefit plan), and expenses, including but not limited to, attorneys’ fees of opposing parties incurred concerning a Proceeding.

(g) “Proceeding” means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, whether formal or informal, and any appeal therein (and any inquiry or investigation that could lead to such a proceeding).

**SECTION 2: STATEMENT OF INTENT.** The Corporation shall indemnify the directors and the indemnified officers to the maximum extent permitted by the Act.

**SECTION 3: INDEMNIFICATION.** In addition to, and not in any way in limitation of, all indemnification rights and obligations otherwise provided by law, the Corporation shall indemnify and hold harmless its Directors and indemnified officers against all liabilities and expenses in any proceeding (including, without limitation, a proceeding brought by or on the Corporation’s behalf itself) arising out of their status as directors or officers, or their service at the Corporation’s request as a director, officer, manager, partner, trustee, employee or agent of another foreign or domestic Corporation (whether a business or nonprofit Corporation), limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise, or their activities in any such capacity. The Corporation shall also indemnify each director and indemnified officer for their costs, expenses, and attorneys’ fees incurred in connection with the enforcement of the rights to indemnification granted herein if it is determined by Section 4 of this Article that the director or indemnified officer is entitled to indemnification hereunder.

The Corporation shall not indemnify a director or an indemnified officer against Liabilities

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or Expenses that such person may incur on account of activities of such person which, at the time taken, substantially involve any of the following:

- (a) Acts that are known or should have reasonably been known to conflict with the Corporation's best interests ;
- (b) Acts of bad faith;
- (c) Acts of willful or grossly negligent misconduct in the performance of duty;
- (d) Acts involving receipt of an improper and substantial personal benefit; or
- (e) Acts in connection with a proceeding in which the person was adjudged liable to the Corporation.

The Board shall have the authority to adopt such resolutions pertaining to the implementation of this Article, Section 3, as it may from time to time determine. Such resolutions shall be given full effect, even though they supplement, amplify or go beyond the provisions of this Article, Section 3 provided, and to the extent that such resolution does not violate any provision of the Act or the articles of incorporation. This Article, Section 3, shall be construed to fully affect the purpose and intent of the resolution of the Board of directors approving and adopting this provision.

**SECTION 4: DETERMINATION.** The Corporation shall pay any indemnification under Section 3 of this Article in a specific case only after determining that the director or indemnified officer has met the standard of conduct set forth in Section 3 of this Article. Such determination shall be made:

- (a) by the Board by a majority vote of a quorum consisting of the members thereof, not at the time parties to the Proceeding;
- (b) if a quorum cannot be obtained under Section 4(a), by a majority vote of a committee duly designated by the Board (in which designation Board who are parties to the Proceeding may participate), consisting solely of two or more Board, not at the time parties to the Proceeding; or
- (c) by special legal counsel (i) selected by the Board or a committee thereof in the manner prescribed in Section 4(a) or (b), or (ii) if a quorum of the Board cannot be obtained under Section 4(a) and a committee cannot be designated under Section 4(b), selected by a majority vote of the entire Board (in which selection members thereof who are parties in the Proceeding may participate).

The Board shall take all action necessary and appropriate to enable the Corporation to pay the indemnification required by this Article.



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**SECTION 5: EXPENSE ADVANCES.** The Expenses incurred by a director or an indemnified officer in defending a Proceeding may be paid by the Corporation in advance of the final disposition of such Proceeding as authorized by the Board in the specific case upon receipt of an undertaking by or on behalf of the director or indemnified officer to repay such amount unless it shall ultimately be determined that such person is entitled to be reimbursed by the Corporation against such Expenses. Subject to receipt of such undertaking, the Corporation shall make reasonable periodic advances for Expenses under this Section 5 unless the Board shall determine, in the manner provided in Section 4 of this Article and based on the facts then known, that indemnification under this Article is or will be, precluded.

**SECTION 6: RELIANCE AND CONSIDERATION.** Any director or indemnified officer who at any time after this Article's adoption serves or has served in any of the aforesaid capacities for or on the Corporation's behalf shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right to of indemnification provided herein. Such freedom, however, shall not be exclusive of any other rights to which such a person may be entitled apart from the provisions of this Article. No amendment, modification, or repeal of this Article IX shall adversely affect the right of any director or indemnified officer to be indemnified hereunder concerning any activities occurring before the time of such amendment, modification, or repeal.

**SECTION 7: INSURANCE.** Except to the extent required or limited by law, the Board may purchase and maintain insurance on behalf of its directors, officers, employees, and agents and those persons who were or are serving at the Corporation's request in any capacity with another Corporation (whether a business or nonprofit Corporation), limited liability company, partnership, joint venture, trust, employee benefit plan or another enterprise against any liability asserted against or incurred by such person in any such capacity, or arising out of their status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of this Article or otherwise. Any total or partial payment made by an insurance company under any insurance policy covering any director, officer, employee, agent, or other person identified above made to or on behalf of a person entitled to indemnification under this Article shall relieve the Corporation of its liability for indemnification provided for in this Article or otherwise to the extent of such payment. No insurer shall have a right of subrogation against the Corporation concerning such payment.

**SECTION 8: SAVINGS CLAUSE.** If this Article or any portion hereof shall be invalidated on any ground by any court or agency of competent jurisdiction, then the Corporation shall nevertheless indemnify each person indemnified hereunder to the fullest extent permitted by the portion of this Article that is not invalidated and also to the fullest extent permitted or required by applicable law.

## **ARTICLE XIII AMENDMENTS**

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Amendments to these bylaws may be made by the Board in regular meetings assembled, either annual or special, with advance notice of at least thirty (30) days, and if special, then the purpose of the meeting with the proposed amendment or amendments must be stated in the call; provided, however, the vote of two-thirds (2/3) of the Board then in office shall be required to amend these bylaws unless otherwise herein expressly specified or required by law.

#### **ARTICLE XIV DISSOLUTION AND DISTRIBUTION**

Upon the Corporation's dissolution, and after paying or making provisions for the paying of all the Corporation's liabilities, the Board shall distribute all the Corporation's assets for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code (or corresponding section of any future tax code), or to federal, state, or local governments to be used exclusively for public purposes. Any such assets not so disposed of shall be disposed of by the Superior Court of the county in which the Corporation's principal office is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

#### **ARTICLE XV MISCELLANEOUS**

##### **SECTION 1: FISCAL YEAR AND AUDITS.**

- (a) The Corporation's fiscal year shall be set by the Board.
- (b) The Corporation's books and its fiscal agent may be audited annually, as directed by the Board.

**SECTION 2: NET EARNINGS.** No part of the Corporation's net earnings shall inure to the benefit of, or be distributable to, its directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the purpose clause of the Corporation's articles of incorporation, as may be amended from time to time. No substantial part of the Corporation's activities shall involve issuing propaganda or otherwise attempting to influence legislation. The Corporation shall not participate in any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of this document, the Corporation shall not carry on any other activities not permitted to be carried on (a) by an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or (b) by an organization, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code, or corresponding section of any future federal tax code.

The undersigned officer certifies that the preceding bylaws have been adopted for the Corporation

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by the North Carolina Nonprofit Corporation Act requirements.

APPROVED BY THE BOARD OF DIRECTORS on \_\_\_\_\_ [DATE]

\_\_\_\_\_  
Board Secretary [Signed]

\_\_\_\_\_  
Board Secretary [Printed]