

**BY-LAWS OF
INTERBORO EDUCATION FOUNDATION**

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**INTERBORO EDUCATION FOUNDATION
BY-LAWS**

ARTICLE I - NAME

Section 1.1 Corporate Name. The name of the corporation shall be the Interboro Education Foundation, hereinafter referred to as the Foundation.

Section 1.2 Fund Names. The Board of Directors may, from time to time, approve the names of the funds to be administered by the Foundation.

ARTICLE II - PURPOSE

Section 2.1 Mission Statement. The Foundation is an independent, non-profit organization, created in September, 2019, whose mission is to promote, enrich, and preserve Interboro School District educational programs, benefiting the district's teachers, students, and the Interboro community.

Section 2.2 Vision. The Foundation will enhance existing school programs through grants to teachers and contributions for new, unique, and innovative programs. The Foundation is funded through generous contributions from caring individuals, area businesses, and district alumni, as well as through community fundraising events and activities. The Foundation will identify and secure revenue sources to support these goals.

Section 2.3 Values. The primary beneficiaries of the Foundation are Interboro School District students, teachers, and the Interboro community; with diminishing resources and greater expectations, the Foundation will provide an avenue to expand existing educational opportunities in preparing students before post-secondary education or entering the workforce.

Section 2.4 The Foundation is organized exclusively for educational purposes under Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code.

Section 2.5 No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

ARTICLE III - OFFICES

Section 3.1 The registered office of the Foundation shall be at 111 Leon Avenue, Norwood, Pennsylvania, 19074.

Section 3.2 The Foundation may also have offices at such other places as the Board of Directors may, from time to time, appoint or the activities of the Foundation may require.

ARTICLE IV - SEAL

Section 4.1 The corporate seal shall have inscribed thereon the name of the Foundation, the year of its organization and the words "Corporate Seal, Pennsylvania."

ARTICLE V - BOARD OF DIRECTORS

Section 5.1 Powers and Duties. All powers, obligations, and rights shall reside in the Board of Directors (“Directors”). The business and affairs of this Foundation shall be managed by its Directors. In addition to the powers and authorities expressly conferred upon them by these By-Laws, the Directors may exercise all such powers of the Foundation and do all such lawful acts and things as are not by statute or by the Articles or by these By-Laws directed or required to be exercised or done by any other body.

Section 5.2 Number of Directors. The number of Directors shall be not less than five and no more than eleven in number.

Section 5.3 Composition.

A. Board of Directors. Directors shall be natural persons of full age and need not be residents of this Commonwealth. They will be chosen from individuals having an interest in excellence in education. Their qualification to serve will be based upon their knowledge of educational and community needs. Members may be drawn from various groups to include: students, parents, teachers, school administrators, community, alumni, business, civic, and charitable organizations.

B. Salaried Director. When the Foundation has a need for expert knowledge on a specific topic, a Salaried Director may be elected, by a majority vote of the other members of the Board of Directors. A Salaried Director shall be a natural person of full age and need not be a resident of this Commonwealth. Notwithstanding the Directors’ terms described in Section 5.4 of these By-Laws, the term of a Salaried Director shall be stipulated in writing, limited, restricted to the length of the need for his or her expert knowledge, and shall not exceed one year.

Section 5.4 Terms.

A. Directors shall have overlapping terms, so that their terms do not expire in the same year. Directors will be divided into three classes and thus known as a Classified Board of Directors (“Directors”). The number of Directors in each class will be as equal as possible.

B. In order to establish this Classified Board of Directors, the initial process shall be as follows:

- (1) Class A – The first term of office for the Founding Directors in Class A shall be one year and expire on December 31, 2020. Beginning on December 31, 2020, subsequent terms expire every third year.
- (2) Class B – The first term of office for the Founding Directors in Class B shall be two years and expire on December 31, 2021. Beginning on December 31, 2021, subsequent terms expire every third year.
- (3) Class C – The first term of office for the Founding Directors in Class C shall be three years and expire on December 31, 2022. Beginning on December 31, 2022, subsequent terms expire every third year.

C. In order to continue this Classified Board, the first terms of new Directors shall synchronize and expire with the subsequent terms described in Article V, 5.4, B (1), (2), and (3). Therefore, new Directors’ first terms will expire at the end of one or two or three years and be dependent on the year of their election and the Class to which they are assigned. Examples are as follows:

- (1) Class A - The first term of a new Director assigned to Class A and elected in 2020 or 2021 or 2022 will expire on December 31, 2023; subsequent terms expire every third year.
- (2) Class B - The first term of a new Director assigned to Class B and elected in 2024 or 2025 or 2026 will expire on December 31, 2027; subsequent terms expire every third year.
- (3) Class C - The first term of a new Director assigned to Class C and elected in 2025 or 2026 or 2027 will expire on December 31, 2028; subsequent terms expire every third year.

D. At the expiration of the first terms described in Article V, 5.4, B and C, the terms of all Classes of Directors shall be three years.

E. Following completion of their first terms, Directors may serve up to three consecutive, three-year terms.

F. A Director who has served the maximum number of terms may be of assistance as a committee volunteer of the Foundation and may seek election to the Board of Directors following one year of committee volunteer service.

Section 5.5 Manner of Selection.

A. The incorporators shall elect the initial Directors of the Foundation and assign a Class to each Director at the organization meeting.

B. Nominations for Director shall be submitted by the Nominating Committee to the Executive Committee not less than thirty (30) days prior to the annual meeting. Current members, whose terms are ending, may submit their names to the Nominating Committee for re-election. A slate of appropriate candidates, new and returning, will be presented by the Executive Committee for consideration by the full Board of Directors.

C. Directors shall be elected by the majority vote of the other members of the Board of Directors, at the annual meeting of the Foundation.

Section 5.6 Compensation.

A. Directors shall not receive financial remuneration except when, by a majority vote of all Directors:

- (1) payment is authorized for expenses; or
- (2) a Director has been designated as a salaried Director of the Foundation.

B. Directors shall have the authority to establish a salaried Director's compensation for his or her services as such.

C. No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, trustees, 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 described in section 501(c)(3).

Section 5.7 Suspend or Expel for Cause. The Board of Directors, by affirmative vote of two-thirds (2/3rds) of all of the members of the Board, may suspend or expel a member of the Board for cause after an appropriate hearing.

Section 5.8 Fiduciary Relationship. A Director of the Foundation shall stand in a fiduciary relation to the Foundation and shall perform his or her duties as a Director, including his or her duties as a member of any committee of the board upon which he or she may serve, in good faith, in a manner he or she reasonably believes to be in the best interests of the Foundation, and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his or her duties, a Director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared by any of the following:

- (1) one or more Officers of the Foundation whom the Director reasonably believes to be reliable and competent in the matters presented;
- (2) counsel, public accountants, or other persons as to matters which the Director reasonably believes to be within the professional or expert competence of such person; and
- (3) a committee of the Foundation upon which he or she does not serve, duly designated in accordance with law, as to matters within its designated authority, which the Director reasonably believes to merit confidence.

Section 5.9 Personal Liability for Monetary Damages. A Director of the Foundation shall not be personally liable for monetary damages as such for any action taken, or any failure to take any action, unless:

- (1) the Director has breached or failed to perform the duties of his or her office under this section; or
- (2) the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

The provisions of this section shall not apply to:

- (1) the responsibility or liability of a Director pursuant to any criminal statute; or
- (2) the liability of a Director for the payment of taxes pursuant to local, State or Federal law.

ARTICLE VI - EXECUTIVE OFFICERS

Section 6.1 Number. The Executive Officers of the Foundation shall consist of a President, a Vice President, a Secretary, and a Treasurer, and such other Executive Officers as the Directors may, from time to time, appoint.

Section 6.2 Qualifications. The President, Vice President, and Secretary shall be natural persons of full age; the Treasurer, however, may be a Foundation, but if a natural person, shall be a natural person of full age. The Executive Officers shall have such authority as shall from time to time be prescribed by resolution of the Board. Any number of offices may be held by the same person, except that the offices of President and Treasurer shall not be held by the same person.

Section 6.3 Elections and Terms of Office. The Executive Officers of the Foundation shall be elected annually by the Directors, immediately following the election of the Directors at the regular Annual Meeting. All Executive Officers may be re-elected without limitation to the number of terms served. All terms of office shall be for one year.

Section 6.4 President. The President shall be the Chief Executive Officer of the Foundation; he or she shall preside at all meetings of the Directors. He or she shall be an Ex Officio member of all committees and shall have the general powers and duties of supervision and management usually vested in the office of President.

Section 6.5 Vice President. The Vice President shall act in all cases for and as the President in the latter's absence or incapacity, and shall perform such other duties as he or she may be required to do from time to time.

Section 6.6 Secretary. The Secretary shall attend all sessions of the Board and act as clerk thereof, and record all the votes of the Foundation and the minutes of all its transactions in a book to be kept for that purpose; and shall perform like duties for all committees of the Directors when required. He or she shall give, or cause to be given, notice of all meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Directors or President, under whose supervision he or she shall be. He or she shall keep in safe custody the corporate seal of the Foundation, and when authorized by the Board, affix the same to any instrument requiring it.

Section 6.7 Treasurer. The Treasurer shall have custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Foundation, and shall keep the moneys of the Foundation in a separate account to the credit of the Foundation. He or she shall disburse the funds of the Foundation as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and Directors, at the regular meetings of the Board, or whenever they may require it, an account of all his or her transactions as Treasurer and of the financial condition of the Foundation. The Treasurer shall be bonded, at the expense of the Foundation, and at the discretion of the Board of Directors.

ARTICLE VII - COMMITTEES

Section 7.1 Committees. The Directors may establish committees, as needed, to consist of one or more Directors of the Foundation. No such committee shall have any power or authority as to the following:

- (1) the adoption, amendment or repeal of the By-Laws;
- (2) the amendment or repeal of any resolution of the Board;
- (3) action on matters committed by the By-Laws or resolution of the Directors to another committee of the Board; and
- (4) the execution of contracts binding the Foundation.

Section 7.2 Executive Committee. There shall be an Executive Committee composed of the Executive Officers of the Foundation. The Executive Committee shall meet at the call of the President or any two Executive Officers to conduct the affairs of the Foundation between meetings of the Board. All action taken by the Executive Committee shall be subject to ratification by the Board.

Section 7.3 Nominating Committee. A Nominating Committee shall be appointed by the President not less than sixty (60) days prior to the Annual Meeting. The Nominating Committee shall be composed of not less than three (3) Directors of the Foundation. The Nominating Committee shall endeavor to find appropriate candidates, including current members, to fill all Board of Director positions whose terms expire at the next Annual Meeting. The nominations for Director shall be submitted by the Nominating Committee to the Executive Committee not less than thirty (30) days prior to the Annual Meeting.

Section 7.4 Audit Committee. An Audit Committee Chairperson shall be appointed by the President at the Regular Meeting in January. The Audit Committee shall arrange for an annual audit of the Foundation's accounts and shall present the Audit Report to the President and Treasurer upon completion of the Report, but not later than November. The Treasurer shall present the Audit Report to the Officers and Directors at the meeting immediately following receipt of the completed Audit Report or at the Annual Meeting in December, whichever occurs first. The Audit Report shall be filed with the Minutes of the Annual Meeting of the Board of Directors.

Section 7.5 Ex Officio Member. The President or designee shall serve as Ex Officio of all committees.

ARTICLE VIII - MEETINGS

Section 8.1 Annual Meeting. The annual meeting of the Directors shall be held on the 2nd Wednesday in December at 7 p.m.

Section 8.2 Regular Meetings. In addition to the Annual Meeting, regular meetings shall be held at least semi-annually and shall be called by the President or any two Directors. At the discretion of the Executive Committee, additional meetings may be called.

Section 8.3 Notice of Meetings.

A. Notice of the Annual Meeting shall be given to the Directors not more than sixty (60) days nor less than ten (10) days before the meeting.

B. Notice of Regular Meetings shall be given to Directors at least seven (7) days prior to the day of the meeting.

Section 8.4 Quorum. A Quorum shall be considered for the transaction of business at any meeting of the Foundation when a minimum of two-thirds (2/3rds) of the Directors are present either in person or by way of electronic media. Directors may not vote by proxy.

Section 8.5 Meeting Participation. One or more persons may participate in a meeting of the Board by conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence in person at such meeting.

Section 8.6 Action Without a Meeting. Any action which may be taken at a meeting of the Directors may be taken without a meeting, if a consent or consents in writing setting forth the action so taken shall be signed by all of the Directors in office and shall be filed with the Secretary of the Foundation.

Section 8.7 Presiding at Meetings. In the absence of both the President and Vice President, any other Officer of the Foundation may preside at the Directors' Meeting.

ARTICLE IX - VACANCIES

Section 9.1 Officer Vacancy. If there is a vacancy in the office of the President, the Vice President will become the President. At the next regularly scheduled meeting, a new Vice President may be elected. If there is a vacancy of any other Executive Officer, the Directors may elect a successor or successors. An Executive Officer elected to fill a vacancy shall be elected for the unexpired term of the predecessor.

Section 9.2 Director Vacancy. A vacancy may be created by written resignation of a member from the Board of Directors. At the discretion of the Board, a Director's position may be considered vacant after absence from three consecutive meetings. Except as otherwise stated in these By-Laws, any vacancy occurring among the members of the Directors may be filled by a majority vote of the Directors present at the next meeting. A Director elected to fill a vacancy shall be elected for the unexpired term of the predecessor.

Section 9.3 Declared Vacancy. The Directors may declare vacant the office of a Director if he or she is declared of unsound mind by an order of court or is convicted of a felony, or if within sixty (60) days after notice of his or

her selection, he or she does not accept such office either in writing or by attending a meeting of the Board of Directors, and fulfill such other requirements of qualification as the By-Laws may specify.

ARTICLE X - BOOKS AND RECORDS

Section 10.1 The Foundation shall keep an original or duplicate record of the proceedings of the Directors, the original or a copy of its By-Laws, including all amendments thereto to date, certified by the Secretary of the Foundation, and an original or a duplicate register, giving the names of the members of the Board of Directors, and showing their respective addresses. The Foundation shall also keep appropriate, complete and accurate books or records of account. The records provided for herein shall be kept at the registered office of the Foundation.

Section 10.2 Every member of the Directors shall, upon written demand under oath stating the purpose thereof, have a right to examine, in person or by agent or attorney, during the usual hours for business for any proper purpose, the register, books and records of account, and records of the proceedings of the Directors and to make copies or extracts therefrom. A proper purpose shall mean a purpose reasonably related to the interest of such person as a member of the Board of Directors. In every instance where an attorney or other agent shall be the person who seeks the right to inspection, the demand under oath shall be accompanied by a power of attorney or such other writing which authorizes the attorney or other agent to so act on behalf of the member of the Board of Directors. The demand under oath shall be directed to the Foundation at its registered office.

ARTICLE XI - FINANCES AND TRANSACTION OF BUSINESS

Section 11.1 The fiscal year of the Foundation shall begin on the first day of January.

Section 11.2 All Foundation proceeds and receipts shall be deposited in a FDIC-insured depository bank.

Section 11.3 The President, Vice President, Treasurer and Financial Secretary, shall have authority to sign checks of the Foundation. All checks or demands for money and notes of the Foundation shall require two authorized signatures.

Section 11.4 Whenever the lawful activities of the Foundation involve among other things the charging of fees or prices for its services or products, it shall have the right to receive such income and, in so doing, may make an incidental profit. All such incidental profits shall be applied to the maintenance and operation of the lawful activities of the Foundation, and in no case shall be divided or distributed in any manner whatsoever among the Directors or Executive Officers of the Foundation.

Section 11.5 At no time may any Foundation funds be used for personal expenses, even with the intention of immediate reimbursement to the Foundation. In the event this should occur, appropriate action will be taken, including notification to authorities as appropriate.

ARTICLE XII - ANNUAL REPORT AND AUDIT REPORT

Section 12.1 Annual Report. The President and Treasurer shall present annually to the Directors a report showing in appropriate detail the following:

- (1) the assets and liabilities, including the trust funds, of the Foundation as of the end of the fiscal year immediately preceding the date of the report;
- (2) the principal changes in assets and liabilities including trust funds, during the year immediately preceding the date of the report;

- (3) the revenue or receipts of the Foundation, both unrestricted and restricted to particular purposes, for the year immediately preceding the date of the report, including separate data with respect to each trust fund held by or for the Foundation; and
- (4) the expenses or disbursements of the Foundation, for both general and restricted purposes, during the year immediately preceding the date of the report, including separate data with respect to each trust fund held by or for the Foundation.

The Annual Report shall be filed with the minutes of the Annual Meeting of the Directors.

Section 12.2 Audit Report. The Audit Committee Chairperson shall present the Audit Report to the President and Treasurer upon completion of the Report. The Treasurer shall present the Audit Report to the Executive Officers and Directors at the meeting immediately following receipt of the completed Audit Report or at the Annual Meeting in December, whichever occurs first.

The Audit Report shall be filed with the Minutes of the Annual Meeting of the Directors.

ARTICLE XIII - NOTICES

Section 13.1 Notice of actionable items and information about actionable items to be voted upon shall be distributed the Directors for evaluation five (5) days prior to any meetings.

Section 13.2 Whenever written notice is required to be given to any person, it may be given to such person, either (a) personally or (b) by sending a copy thereof by first class mail, postage prepaid, or (c) by e-mail, to his or her address appearing on the books of the Foundation, supplied by him or her to the Foundation for the purpose of notice. If the notice is sent by mail, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail. If the notice is sent by e-mail it shall be deemed to have been given to the person entitled thereto when the e-mail is sent to such person.

ARTICLE XIV - AMENDMENTS

Section 14.1 These By-Laws may be amended by the majority vote of members of the Directors at any regular or special meeting at which a Quorum is present. No action shall be taken to amend any By-Laws unless written notice of the proposed amendment(s) shall have been given at least ten (10) days prior to the meeting.

ARTICLE XV - INDEMNIFICATION OF DIRECTORS, EXECUTIVE OFFICERS AND OTHER AUTHORIZED REPRESENTATIVES

Section 15.1 Scope of Indemnification.

A. General Rule. The Foundation shall indemnify an indemnified representative against any liability incurred in connection with any proceeding in which the indemnified representative may be involved as a party or otherwise by reason of the fact that such person is or was serving in an indemnified capacity, including, without limitation, liabilities resulting from any actual or alleged breach or neglect of duty, error, misstatement or misleading statement, negligence, gross negligence or act giving rise to strict or products liability, except:

- (1) where such indemnification is expressly prohibited by applicable law;
- (2) where the conduct of the indemnified representative has been finally determined pursuant to Article XV, Section 15.6 or otherwise:

- (a) to constitute willful misconduct or recklessness within the meaning of 15 Pa.C.S. § 513(b) and 1746(b) and 42 Pa.C.S. § 8365(b) or any superseding provision of law sufficient in the circumstances to bar indemnification against liabilities arising from the conduct; or
- (b) to be based upon or attributable to the receipt- by the indemnified representative from the Foundation of a personal benefit to which the indemnified representative is not legally entitled; or
- (3) to the extent such indemnification has been finally determined in a final adjudication pursuant to Article XV, Section 15.6 to be otherwise unlawful.

B. Partial Payment. If an indemnified representative is entitled to indemnification in respect of a portion, but not all, of any liabilities to which such person may be subject, the Foundation shall indemnify such indemnified representative to the maximum extent for such portion of the liabilities.

C. Presumption. The termination of a proceeding by judgment, order, settlement or conviction or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that the indemnified representative is not entitled to indemnification.

D. Definitions. For purposes of this Article:

- (1) “indemnified capacity” means any and all past, present and future service by an indemnified representative in one or more capacities as a Director, Executive Officer, employee or agent of the Foundation, or, at the request of the Foundation, as a Director, Executive Officer, employee, agent, fiduciary or trustee of another Foundation, partnership, joint venture, trust, employee benefit plan or other entity or enterprise;
- (2) “indemnified representative” means any and all Directors and Executive Officers of the Foundation and any other person designated as an indemnified representative by the Directors of the Foundation (which may, but need not, include any person serving at the request of the Foundation, as a Director, Executive Officer, employee, agent, fiduciary or trustee of another Foundation, partnership, joint venture, trust, employee benefit plan or other entity or enterprise);
- (3) “liability” means any damage, judgment, amount paid in settlement, fine, penalty, punitive damages, excise tax assessed with respect to an employee benefit plan, or cost or expense, of any nature (including, without limitation, attorneys’ fees and disbursements); and
- (4) “proceeding” means any threatened, pending or completed action, suit, appeal or other proceeding of any nature, whether civil, criminal, administrative or investigative, whether formal or informal, and whether brought by or in the right of the Foundation, a class of its security holders or otherwise.

Section 15.2 Proceedings Initiated by Indemnified Representatives. Notwithstanding any other provision of this Article, the Foundation shall not indemnify under this Article an indemnified representative for any liability incurred in a proceeding initiated (which shall not be deemed to include counter-claims or affirmative defenses) or participated in as an intervenor or amicus curiae by the person seeking indemnification unless such initiation of or participation in the proceeding is authorized, either before or after its commencement, by the affirmative vote of a majority of the Directors in office. This section does not apply to a reimbursement of expenses incurred in

successfully prosecuting or defending an arbitration under Article XV, Section 15.6 or otherwise successfully prosecuting or defending the rights of an indemnified representative granted by or pursuant to this Article.

Section 15.3 Advancing Expenses. The Foundation shall pay the expenses (including attorneys' fees and disbursements) incurred in good faith by an indemnified representative in advance of the final disposition of a proceeding described in Article XV, Section 15.1 or the initiation of or participation in which is authorized pursuant to Article XV, Section 15.2 upon receipt of an undertaking by or on behalf of the indemnified representative to repay the amount if it is ultimately determined pursuant to Article XV, Section 15.6 that such person is not entitled to be indemnified by the Foundation pursuant to this Article. The financial ability of an indemnified representative to repay an advance shall not be a prerequisite to the making of such advance.

Section 15.4 Securing of Indemnification Obligations. To further effect, satisfy or secure the indemnification obligations provided herein or otherwise, the Foundation may maintain insurance, obtain a letter of credit, act as self-insurer, create a reserve, trust, escrow, cash collateral or other fund or account, enter into indemnification agreements, pledge or grant a security interest in any assets or properties of the Foundation, or use any other mechanism or arrangement whatsoever in such amounts, at such costs, and upon such other terms and conditions as the Directors shall deem appropriate. Absent fraud, the determination of the Directors with respect to such amounts, costs, terms and conditions shall be conclusive against all security holders, Executive Officers and Directors and shall not be subject to voidability.

Section 15.5 Payment of Indemnification. An indemnified representative shall be entitled to indemnification within thirty (30) days after a written request for indemnification has been delivered to the secretary of the Foundation.

Section 15.6 Arbitration.

A. General Rule. Any dispute related to the right to indemnification, contribution or advancement of expenses as provided under this Article, except with respect to indemnification for liabilities arising under the Securities Act of 1933 that the Foundation has undertaken to submit to a court for adjudication, shall be decided only by arbitration in the metropolitan area in which the principal executive offices of the Foundation are located at the time, in accordance with the commercial arbitration rules then in effect of the American Arbitration Association, before a panel of three arbitrators, one of whom shall be selected by the Foundation, the second of whom shall be selected by the indemnified representative and third of whom shall be selected by the other two arbitrators. In the absence of the American Arbitration Association, or if for any reason arbitration under the arbitration rules of the American Arbitration Association cannot be initiated, or if one of the parties fails or refuses to select an arbitrator or if the arbitrators selected by the Foundation and the indemnified representative cannot agree on the selection of the third arbitrator within thirty (30) days after such time as the Foundation and the indemnified representative have each been notified of the selection of the other's arbitrator, the necessary arbitrator or arbitrators shall be selected by the presiding judge of the court of general jurisdiction in such metropolitan area.

B. Burden of Proof. The party or parties challenging the right of an indemnified representative to the benefits of this Article shall have the burden of proof.

C. Expenses. The Foundation shall reimburse an indemnified representative for the expenses (including attorneys' fees and disbursements) incurred in successfully prosecuting or defending such arbitration.

D. Effect. Any award entered by the arbitrators shall be final, binding and nonappealable and judgment may be entered thereon by any party in accordance with applicable law in any court of competent jurisdiction, except that the Foundation shall be entitled to interpose as a defense in any such judicial enforcement proceeding any prior final judicial determination adverse to the indemnified representative under Article XV,

Section 15.1 A. (2) in a proceeding not directly involving indemnification under this Article. This arbitration provision shall be specifically enforceable.

Section 15.7 Contribution. If the indemnification provided for in this Article or otherwise is unavailable for any reason in respect of any liability or portion thereof, the Foundation shall contribute to the liabilities to which the indemnified representative may be subject in such proportion as is appropriate to reflect the intent of this Article or otherwise.

Section 15.8 Mandatory Indemnification of Directors, Executive Officers, Etc. To the extent that an authorized representative of the Foundation has been successful on the merits or otherwise in defense of any action or proceeding referred to in 15 Pa.C.S. 1741 or 1742 or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees and disbursements) actually and reasonably incurred by such person in connection therewith.

Section 15.9 Contract Rights; Amendment or Repeal. All rights under this Article shall be deemed a contract between the Foundation and the indemnified representative pursuant to which the Foundation and each indemnified representative intend to be legally bound. Any repeal, amendment or modification hereof shall be prospective only and shall not affect any rights or obligations then existing.

Section 15.10 Scope of Article. The rights granted by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification, contribution or advancement of expenses may be entitled under any statute, agreement, vote of shareholders or disinterested Directors or otherwise both as to action in an indemnified capacity and as to action in any other capacity. The indemnification, contribution and advancement of expenses provided by or granted pursuant to this Article shall continue as to a person who has ceased to be an indemnified representative in respect of matters arising prior to such time, and shall inure to the benefit of the heirs, executors, administrators and personal representatives of such a person.

Section 15.11 Reliance of Provisions. Each person who shall act as an indemnified representative of the Foundation shall be deemed to be doing so in reliance upon the rights provided in this Article.

Section 15.12 Interpretation. The provisions of this Article are intended to constitute by-laws authorized by 15 Pa.C.S. § 513 and 1746 and 42 Pa.C.S. § 8365.

By-Laws Adopted: February 6, 2020

By-Laws Amended: November 8, 2023 (Section 5.4 and Section 6.3)