MEMORY GARDENS, INC. BY-LAWS

AS AMENDED

January 31, 2024

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MEMORY GARDENS, INC. BY-LAWS

January 31, 2024

ARTICLE I

MEMBERSHIP

The membership of the Corporation shall consist of owners of lots in the Cemetery who are persons having lawful title to the niche, crypt, plot, or lot or part thereof in the Cemetery (collectively referred to herein as a "Lot"). If there is more than one owner of a Lot on record with the Cemetery, then the owners (by majority vote) shall designate one person to vote on behalf of all of the owners at any meeting of the Cemetery. If the Lot is not held in joint tenancy or tenancy of the entirety, the lot ownership shall pass upon the death of the owner as follows:

(a) to the devices of the Lot owner;

(b) if the interest is not effectually devised, for the Lot owner's descendants then surviving;

(c) if there are no surviving descendants, to the Lot owner's surviving spouse; or

(d) if there are none of the above, then to those entitled to take the real and personal property of the Lot owner pursuant to Article 4 of the New York Estates, Powers and Trust Law, provided that no ownership shall pass by any residuary or other general clause in a Last Will and Testament unless the lot is specifically referred to in such last Will and Testament.

ARTICLE II

ANNUAL LOT OWNERS AND SPECIAL MEMBERSHIP MEETINGS

Section 1. Annual Lot Owners Meeting: As required by the Certificate of Incorporation, there shall be an Annual Meeting of the members held on the first Saturday in May. If such day shall fall on a holiday, the meeting shall be held on the first non-holiday Saturday of May. Notice of the time and place of such meeting shall be published once weekly for three successive weeks preceding the date of the meeting in a general circulation newspaper published in the County of Albany. The Corporation shall also post notice of the meeting prominently on the homepage of the Corporation's website.

The Board of Directors shall present at the Annual Lot Owners Meeting a report certified by a firm of independent public accountants selected by the Board, showing in appropriate detail the following:

(a) The assets and liabilities, including the trust funds, of the Corporation as of the end of the 12-month fiscal period terminating not more than six (6) months prior to said meeting.

(b) The principal changes in assets and liabilities, including trust funds, during said fiscal period.

(c) The revenue or receipts of the Corporation both unrestricted and restricted to particular purposes during said fiscal period.

(d) The expenses or disbursements of the Corporation for both general and restricted purposes, during said fiscal period.

(e) The number of members of the Corporation as of the date of the report, together with a statement of increase or decrease in such number during said fiscal period and a statement of the place where the names and places of residence of the current members may be found.

This report shall be filed with the records of this Corporation and a copy thereof entered in the minutes of the proceedings of the Annual Lot Owners Meeting.

Section 2. Special Membership Meetings: Special meetings of the members may be called by the Board of Directors or by the President or Vice President of the Corporation upon request in writing by three or more Directors of the Corporation. Notice of the time and place of such meeting shall be published once weekly for three successive weeks preceding the date of the meeting in a newspaper published in the County of Albany. The Corporation shall also post notice of the meeting prominently on the homepage of the Corporation's website. At such special membership meetings, there shall only be considered business as specified in the published notice for the meeting. Special meetings may also be called upon request by 10 percent of the membership.

Section 3. Quorum: At all membership meetings of the Corporation, five (5) lot owners shall constitute a quorum (including those submitting their vote by proxy), who are in good standing, even if there are no lot owners physically present.

Section 4. Attendance and Registration: Only members of the Corporation, the board Directors, the Corporation Executive Director, and other staff as needed may attend annual or special meetings of the members. Members of the Corporation attending shall register their name, address, email address, and lot number with the Board Secretary or his/her authorized representative before the meeting starts.

Section 5. Decorum: Each member of the Corporation shall cooperate with the presiding

officer (the Board President or another Board Director in the absence of the Board President) in preserving order and decorum, and no member shall, by conversation or otherwise, delay or interrupt the proceedings of the Corporation, nor disturb any member while speaking, or fail to abide by the orders of the Corporation or its presiding officer, except as specifically permitted by these by-laws.

Any person who disturbs the peace of the Corporation makes impertinent or slanderous remarks or conducts him/herself in a boisterous manner while addressing the Corporation, shall be removed from the meeting.

Section 6. Addressing the Corporation

(a) Corporation members will be permitted to address the Corporation during the Open Comment session, as described in Article II, Section 9 (f) (i) of these By-laws.

(b) Corporation members are permitted to ask questions during other parts of the meeting at the discretion of the presiding officer (the Board President or another Board Director in the absence of the Board President). Any member wishing to ask a question must first raise his/her hand to be recognized by the presiding officer. Once recognized, the member will state his/her name and relationship to Memory Gardens (e.g., lot owner). Comments should be limited to the Board's business at hand.

Section 7. Voting

(a) Each Corporation member as defined in Article I may cast one vote per deed in person or by written proxy at meetings of the Corporation. Only members of the Corporation may vote in the election of Directors. A member may cast one vote for each Deed owned.

(b) Every member entitled to vote at a meeting of the members may authorize another person or persons to act for such member by proxy. Every proxy must be authorized by the member or the member's attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy, but in no event will a proxy be valid for more than five years. Every proxy shall be revocable at the pleasure of the member executing it, except as otherwise provided by law. Proxies may be provided in writing or by electronic mail provided that the transmission of the proxy includes information from which the recipient can reasonably determine that the transmission was authorized by the individual submitting the proxy.[1]

(c) The authority of the holder of a proxy to act shall not be revoked by the incompetence or death of the member who executed the proxy unless, before the authority is exercised, written notice of an adjudication of incompetence or death is received by the Secretary.

[1] Updated to reflect N-PCL Section 609 which allows a member to authorize a proxy by providing electronic mail.

(d) All those casting a vote in person will be required to provide proper photo identification.

(e) The Board may fix a date as the record date for the purpose of determining the members entitled to vote at any member meeting. The record date shall not be more than fifty (50), nor less than ten (10) days before the date of the meeting.

(f) Unless otherwise provided by law or these By-laws, any corporate action shall be approved by a vote of a majority of members present at a meeting at which a quorum is present.

(g) Directors shall be elected by a plurality of the votes cast at a meeting of members.

Section 8. Place of Meeting: All meetings shall be held at the Memory Gardens, Inc. Principle office at 983 Watervliet-Shaker Road in the Town of Colonie, or such other place as may be designated by the Board of Directors.

Section 9. Business at Annual Lot Owners and Special Membership Meetings: The order of business at member meetings shall include, but not be limited to, the following:

(a) Approval of Minutes of prior meeting for information and approval

(b) Reports of Officers

(i) President's Report

(ii) Treasurer's Report

(c) Reports of Committees

(d) Executive Director's Report

(e) Unfinished Business

(f) New Business

(i) Open Comment: Corporation members will be permitted to address the Corporation during the Open Comment session. A member may address the Corporation for a reasonable period to be determined by the presiding officer (the Board President or another Board Director in the absence of the Board President). The rules for addressing the Corporation listed in Section 6 will apply to the Open Comment period as well.

(ii) Other New Business

(g) Board Election: The Board of Directors is prohibited from accepting motions from the floor for nomination to the Board.

ARTICLE III

BOARD OF DIRECTORS

Section 1. Number: As set forth in the Certificate of Incorporation, the number of Directors shall be eleven (11). As used in these By-laws, "entire Board of Directors" means eleven (11).

Section 2. Director Qualifications:

(a) Each Director must be at least eighteen (18) years of age.

(b) A majority of the Directors shall be members of the Corporation, or have a family member who is a member of the Corporation.

(c) All Directors shall act in the best interest of Memory Gardens, Inc. and keep the Cemetery's best interests paramount in all decisions. The Board of Directors or designated committee of the Board shall adopt a Conflict of Interest Policy as required by applicable law; provided, however, that the Cemetery shall not enter into any transaction:

(i) with any corporation, partnership, or other entity in which a director, employee, or relative of such individuals has an ownership interest; or

(ii) from which the Director, employee, or Relative of such individuals will receive a direct financial benefit. Relative for these purposes shall have the same meaning as that term is defined in the Cemetery's Conflict of Interest Policy.

(d) All Directors must have the independence and ability to deliberate, consider, and vote on all issues that may come before the Board.

(e) A Board Director who has been removed, because in the judgment of the majority of the Board of Directors, his or her services were not supporting the best interest and welfare of the Corporation, may not seek future appointment or election to the Board.

(f) Board Directors Attendance Policy: The Board of Directors may, at its discretion, establish an attendance policy for Board Director meetings.

(g) All current and former Board members are prohibited from Memory Gardens employment.

Section 3. Authority: The Board of Directors shall have general charge, management

and control of the affairs, funds and property of the Corporation, shall make rules and regulations and cause records to be kept, and otherwise provide for compliance with the relevant provisions of the Not-For-Profit Corporation Law of the State of New York, or any other law. Each Board Director shall have one vote. Directors shall not vote by proxy.

Section 4. Term of Office: Directors shall serve three (3) year terms. Directors shall be divided into three (3) classes of approximately the same size. At each Annual Meeting of the members, the voting members shall elect one class of directors. Directors shall serve until their successors are elected and qualified.

Section 5. Resignation: Board Directors may resign from the Board at any time. Board Directors who resign will be asked to submit a written statement of resignation to the Board President, who will notify the full Board within 24 hours. Such resignation shall take effect at the time specified therein or upon delivery if no time is specified. The Board of Directors is not required to accept the resignation for the resignation to take effect. Board Directors who resign from the Board may seek future Board candidacy only with the majority consent of the full Board of Directors. The Board member's resignation will be recorded in the next Board meeting monthly minutes.

Section 6. Removal: A Board Director may be removed from office at any time if, in the judgment of the majority of the Board of Directors or by majority vote of the members, his or her services are not supporting the best interest and welfare of the Corporation.

To the extent the Board Director being considered for removal is present at the meeting s/he will be asked to recuse him or herself during the removal vote. The Board Director being considered for removal may not vote on his or her removal. The Board President will inform the Board Director being considered for removal of the outcome of the vote immediately following the vote when the Board Member is present or within one business day following the conclusion of the meeting if s/he is not present. In addition to the oral notification, a certified letter will be sent within two (2) business days following the meeting to the impacted Board Member notifying him or her of the removal.

Section 7. Vacancies: Whenever for any reason a vacancy shall exist in the Board of Directors, the Board President will appoint an ad hoc Nominating Committee to seek and recommend candidates as outlined in the Nomination Process. Upon receipt of recommendations, the Board may fill the vacancy until the next Annual Meeting of Members, at which time the member shall fill the vacancy for the unexpired term.

Section 8. Meetings: Regular Meetings of the Board of Directors shall be held on the second Tuesday of the month at the office of the Corporation in such months as set by the Board of Directors determines or at such other time as may be set by the Board of Directors. There shall be a regular meeting immediately following the Annual Lot Owners Meeting. No notice of Regular Meetings shall be required.

Special Board of Directors meetings shall be held whenever called by the President, Vice President, Treasurer or Secretary upon the written request of three Directors. All special meetings of

the Directors shall be held at the office of the Corporation or at such other place as may be designated by the President. In such a case, the President shall give 48 hours' notice by email and text message or telephone. If notice is sent by electronic mail and text message, notice is given when directed to the individual's electronic mail address and cell phone number provided by the individual to the Corporation. Notice shall not be deemed delivered if:

(a) the Corporation is unable to deliver two (2) consecutive notices to the individual by electronic mail; or

(b) the Corporation otherwise becomes aware that notice cannot be delivered to the individual by electronic mail.

Online or email voting requires a 48-hour window to allow for questions and for votes to be cast. All online/email vote transactions will be published in the Board of Directors monthly meeting minutes.

The chain of command shall be: President, Vice President, Treasurer, Secretary.

Board meetings are closed to the public and staff, except for the Executive Director as deemed appropriate and others the Board invites for specific business.

Section 9. Quorum: A majority of the entire Directors shall constitute a quorum. This majority may be accomplished either via in-person attendance or by electronic means. Less than a majority of Directors present shall have only the authority to adjourn.

Section 10. Action by the Board of Directors.

(a) Except as otherwise provided by law or in these By-laws, the act of the Board of Directors means action taken at a meeting of the Board at which a quorum is present by vote of a majority of the Directors present at the time of the vote.

(b) The following actions require approval by a two-thirds vote of the entire Board of Directors: the purchase of real property that will constitute all or substantially all of the assets of the Corporation once purchased; and the mortgage of real property that constitutes all or substantially all of the assets of the Corporation.

(c) The sale, exchange or other disposition of real property that constitutes all or substantially all of the assets of the Corporation must be approved first by two-thirds (2/3) vote of the entire Board and then submitted to the voting members for approval.*

Any purchase, sale, mortgage, exchange, or other transfer of real property that does not require Board approval as provided in this Section 10(b) may be delegated and approved by a committee of the Board. Such committees shall promptly report any

actions they take to the Board no later than the next regular meeting of the Board.

(d) The lease of real property by the Corporation must be approved by the Board of Directors and is also subject to certain regulatory approvals set forth in New York Not-for-Profit Corporation Law Section 1506-e.

(e) The following items must be approved first by a two-thirds (2/3) vote of the Board present at a meeting at which a quorum is present and then submitted to the voting members for approval:

(i) approval of a merger or consolidation;*

(ii) approval of dissolution of the Corporation;* and

(iii) approval of the sale of all or substantially all of the Corporation's assets.*

*Any of these actions must be approved by two-thirds (⅔) of the voting members present at a meeting for which there is a quorum; provided that the total votes cast in favor of the action must be at least equal to a quorum of members as provided in Article II, Section 3.

(f) The following items require only the approval of a majority of the voting members of the Corporation present at a member meeting at which a quorum is present:

(i) amendment of the Certificate of Incorporation; and

(ii) amendment of these By-laws.

(g) Any action required or permitted to be taken by the Board of Directors or any committee may be taken without a meeting if all members of the Board or the committee consent to the adoption of a resolution authorizing the action. The resolution and the written consent shall be filed with the minutes of the Board or committee. Consent may be provided:

(i) in writing signed by the Director or committee member either in hard copy or by affixing a signature by any reasonable means (e.g., digital signature); or

(ii) by electronic mail that includes information from which the recipient can reasonably determine that the transmission was authorized by the Director or committee member.

(f) Any or all Directors or any committee may participate in a meeting by means of a telephone conference, electronic video screen communication, or similar communications equipment. Participation by such means shall constitute presence in person at a meeting provided that all persons participating in the meeting can hear each other at the same time and each individual may participate in all matters

before the Board or committee, including, but not limited to, proposing, objecting to and voting upon a specific action taken at the meeting.

ARTICLE IV

OFFICERS AND EXECUTIVE DIRECTOR

Section 1. Number and Qualifications. The Officers of the Corporation shall consist of one (1) President, one (1) Vice President, one (1) Secretary, and one (1) Treasurer. Each officer must be a member of the Board of Directors. No employee of the Corporation shall serve as Chair.

Section 2. Term of Office. Those officers whose titles are specifically mentioned in Section 1 of this Article shall be elected by the Board of Directors at its Annual Meeting immediately following the Annual Lot Owners Meeting and shall extend to the next Annual Meeting. All officers shall serve until their successor is elected and qualified.

Section 3. Removal of Officers. The Board may remove any officer with or without cause at any time.

Section 4. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, to the Chair or to the Secretary. Any such resignation shall take effect at the time specified therein, or, if no time be specified, then upon delivery. The Board of Directors is not required to accept the resignation for the resignation to take effect.

Section 5. Vacancies. The Board of Directors shall fill a vacancy in any office. If the office of President becomes vacant, the Vice President shall become President and the Board of Directors shall fill the Vice President vacancy, and subsequent vacancies at the next scheduled Board of Directors meeting.

Section 6. Executive Director: The Executive Director is a paid employee of the corporation who supervises the daily operation of Memory Gardens, including managing staff and developing business plans in collaboration with the Board of Directors for the future of the organization. The Executive Director shall be responsible for hiring, managing, and setting compensation of subordinate staff. The Executive Director is an officer of the corporation who serves at the pleasure of the Board of Directors.

Section 7. Duties

(a) The Executive Director shall have broad authority to administer the affairs of the Corporation and shall be charged with the general welfare with respect to general supervision of the corporation affairs, employees and their duties. S/he shall have the authority, subject to the Board of Directors, to sign checks, notes, other orders for

payment of monies, and contracts, and to negotiate for and on behalf of the Corporation for the purchase of equipment and materials, and to make the general overall management of the Corporation run as smoothly as possible. The Executive Director shall have the authority to make ordinary purchases required in the conduct of Cemetery business in an amount not exceeding five thousand dollars ($5,000.00) regardless of the length of the contract. The total amount of any contract commitment shall not exceed $5,000 regardless of length of the contract. Amounts exceeding $5,000 must be signed by any two of the following: Administrator, President, Vice President, Secretary or Treasurer.

(b) The President shall have broad authority to supervise the administration of the affairs of the Corporation and shall be charged with the supervision of the general welfare of the corporation. The President will act as the manager of the Executive Director. S/he will participate in, or have a fluent understanding of, the activities of all committees of the Corporation. The President will preside over all Board of Directors and Annual Lot Owners and Special Membership Meetings. The President has authority to act as a second authorized signor on ordinary purchases required in the conduct of Cemetery business greater than $5,000. The Treasurer and President shall sign all deeds issued by the Corporation. To the extent that the Treasurer and/or President are not available, the President may appoint another Board Officer to sign on their behalf.

(c) The Vice President shall, in the death, resignation or incapacity of the President, assume the office of President. The Vice President has authority to act as a second authorized signor on ordinary purchases required in the conduct of Cemetery business greater than $5,000.

(d) It shall be the duty of the Secretary to act as secretary of all meetings of the Board of Directors, and to keep the minutes of all such meetings in a proper book or books to be provided for that purpose; the Secretary shall see that all notices required to be given by the Corporation are duly given and served; the Secretary shall keep a current list of the Corporation's Directors and officers and their residence addresses; the Secretary shall be the custodian of the seal of the Corporation and shall affix the seal, or cause it to be affixed, to all agreements, documents and other papers requiring the same. The Secretary shall have custody of the minute book containing the minutes of all meetings of Directors, the Executive Committee, and any other committees which may keep minutes, and of all other contracts and documents which are not in the custody of the Treasurer of the Corporation, or in the custody of some other person authorized by the Board of Directors to have such custody. The Secretary may designate staff or other directors to assist with carrying out the Secretary's duties, subject to the approval of the Board of Directors. The Secretary has the authority to act as a second authorized signor on ordinary purchases required in the conduct of Cemetery business greater than $5,000.

(e) The Treasurer shall have charge of the supervision of the funds and securities of the Corporation. The Treasurer shall verify the deposits of all funds received by the

Corporation whether in the form of cash, checks, drafts, or money orders. S/he shall verify the payment of all funds disbursed by the Corporation whether in the form of cash, checks, drafts, money orders, or electronic transfers. S/he shall provide, or cause to be provided, financial reporting detailing the validation of deposits and payments during all Board of Directors and Annual Lot Owners and Special Membership Meetings. S/he shall keep, or cause to be kept, an accurate, separate account of all funds and securities constituting Permanent Maintenance Funds and all funds of special character. S/he shall chair the Finance Committee. S/he shall develop, or cause to be developed, the annual budget of the Corporation and will compare the actual revenues and expenses incurred against the budget. The Treasurer will present the proposed budget to the Finance Committee for review prior to submission for Board approval. The Treasurer has the authority to act as a second authorized signor on ordinary purchases required in the conduct of Cemetery business greater than $5,000. The Treasurer and President shall sign all deeds issued by the Corporation. To the extent that the Treasurer and/or President are not available, the President may appoint another Board Officer to sign on their behalf.

ARTICLE V

COMMITTEES

Section 1. Executive Committee and Other Committees of the Board. The Board of Directors, by resolution adopted by a majority of the entire Board, may designate an Executive Committee and other committees of the Board consisting of three (3) or more Directors. The Executive committee shall include the President, Vice President, Treasurer, and the Secretary. These committees shall have such authority as the Board by resolution shall provide; the Executive Committee shall have all the authority of the Board, except that no committee shall have authority as to the following matters:

(a) The submission to members of any action requiring members' approval under the law.

(b) The filling of vacancies in the Board or in any committee.

(c) The fixing of compensation of the Directors for serving on the Board or on any committees.

(d) The amendment or repeal of the By-laws, or the adoption of new By-laws.

(e) The amendment or repeal of any resolution of the Board which by its terms, shall not be so amendable or repealable.

(f) The election or removal of officers and Directors.

(g) The adoption of a resolution recommending to the members, approval of a merger, consolidation or plan of dissolution.

(h) The adoption of a resolution recommending to the members, action on the sale, lease, exchange or other disposition of all or substantially all of the Corporation's assets.

(i) The purchase of real property that will constitute all or substantially all of the assets of the Corporation once purchased.

(j) The approval of amendments to the Corporation's Certificate of Incorporation.[2]

Any reference in these By-laws to the Board of Directors shall include the Executive Committee unless the context or express provision otherwise indicates.

Section 2. Committees of the Corporation. The Board of Directors may establish committees of the Corporation including the duties of the committee as well as any restrictions on who may be eligible to serve on committees. Committee members shall be appointed by the President. Such committees shall not be a committee of the Board and shall not exercise any of the powers of the Board or have the authority to bind the Board, and shall be advisory only.

Section 3. Meetings. Notice of committee meetings shall be provided in the same manner as meetings of the Board of Directors. Meetings of committees shall be held at such time and place as may be fixed by the Chair of the Committee or by a vote of a majority of all the members of the Committee.

Section 4. Quorum and Manner of Acting. Unless otherwise provided by resolution of the Board of Directors:

(a) a majority of all of the members of a committee shall constitute a quorum for the transaction of business; and

(b) the act of the committee means actions taken at a meeting of the committee at which a quorum is present by vote of a majority of all of the members of the committee.

The procedures and manner of acting of all committees shall be subject at all times to the directions of the Board of Directors.

Section 5. Tenure of Members of Committees of the Board. Each committee and every committee member shall serve at the pleasure of the Board.

ARTICLE VI

SEAL

The Seal of the Corporation shall be circular in form and shall contain the name of the Corporation (Memory

[2] Updated to reflect N-PCL Section 712.

Gardens, Inc.), the year of incorporation (1941) and the State of incorporation (New York). The seal shall reside in the office of the Corporation.

ARTICLE VII

INDEMNIFICATION

Section 1. Construction and Intent. It is the intent of the provisions of this Article that the Corporation grant to its officers and Directors indemnification to the fullest extent provided by law including not only all the rights of indemnification stated in Article 7 of the Not-for-Profit Corporation Law but in addition thereto all other rights to indemnification and advancement of expenses allowable under law. For the purposes of this Article VII, the term "officers and directors" shall include each individual described in Section (2) below. In the event of any ambiguity, the following provisions of this Article VII shall be construed as liberally as possible in order that the Corporation's officers and directors may be indemnified to the maximum extent permitted by law.

Section 2. Persons Indemnified. It is the intent of this Article VII that the indemnification described in this section be extended to, and that the term "officers and directors" shall include, each and any person made or threatened to be made a party to any action, whether civil or criminal, including any action or threatened action by on behalf of the Corporation, by reason of the fact that deceased individual was a director , officer, committee member, agent or administrator of the Corporation and is or was serving another Corporation, or any partnership, joint venture, trust, employee benefit plan or other enterprises in any capacity at the request of the Corporation.

Section 3. Statutory Indemnification Mandatory. The Corporation shall indemnify any and all of its officers and directors made or threatened to be made a party to an action or proceeding, whether civil or criminal, as described in and to the fullest extent permitted in Article 7 of the Not-for-Profit Corporation law, as currently existing or as hereafter amended.

Section 4. Additional Indemnification. The indemnification and advancement of expenses granted above shall not be deemed exclusive of any other rights to which an officer or director of the Corporation seeking indemnification or advancement or expenses may be entitled. In addition, thereto, the Corporation shall indemnify its officers and directors against any and all expenses, damages, fines, or costs in any legal action commanded or threatened involving such person's service to the Corporation, including but not limited to, indemnification of each such person made or threatened to be made a party to an action by or in the right of the Corporation against judgments, fines, costs, amounts paid in settlement and reasonable expenses, including attorney's fees, actually and necessarily incurred as a result thereof. All such indemnification shall be as complete as possible and to the fullest extent allowable under the laws of the State of New York.

Section 5. Proceedings Initiated by Indemnified Persons. Notwithstanding any other provision in this Article, the Corporation shall not indemnify or advance expenses to an Indemnified Person

for any liability or costs incurred in a proceeding or claim initiated or brought voluntarily by an Indemnified Person and not by way of defense (such as by counterclaim, cross-claim or third-party claim) or participated in as an intervenor or amicus curiae by the person seeking indemnification, unless such indemnification or advancement of expenses is found to be appropriate and is approved by two-thirds (2/3) vote of the entire Board of Directors.[3]

Section 6. Expenses. Any and all expenses incurred in defending any civil or criminal action or proceeding, or threatened action or proceeding, shall be paid or provided for by the Corporation in advance of the final disposition of such action or proceeding and as such expenses are incurred, upon require of such person and upon request of a written undertaking by or on behalf of such person to repay such amounts if he or she is ultimately found not to be entitled to indemnification, and/or to repay any amounts so advanced in excess of the amount allowed by any court, where court authorization is required.

Section 7. Non Exclusivity. Nothing contained in this Article VII shall limit the right to indemnification and advancement of expenses to which any director or officer would be entitled by law in the absence of this Article VII or shall be deemed exclusive of any other rights to which such person seeking indemnification or advancement of expenses may have or hereafter may be entitled under law, any provision of the Certificate of Incorporation, or the by-laws, any agreement approved by the Board of Directors, or a resolution of Directors; and the adoption of any such resolution or entering into any of such agreement approved by the Board of Directors is hereby authorized.

Section 8. Continuity of Rights. The indemnification and advancement of expenses provided by or granted pursuant to this Article VII shall:

(a) Apply with respect to acts or omissions occurring prior to the adoption of this Article VII to the fullest extent permitted by law, and

(b) Survive the full or partial repeal or restrictive amendment hereof with respect to events occurring prior thereto.

ARTICLE VIII

GENERAL

Section 1. Books and Records. There shall be kept at the office of the Corporation:

(a) correct and complete books and records of account;

(b) minutes of the proceedings of the members, the Board of Directors, and any committee of the Board;

[3] We recommend that this section be included.

(c) a current list of the Directors and officers of the Corporation and their residence addresses;

(d) a list of records containing the names and addresses of all members, the class or classes of membership or capital certificate, and the number of capital certificates (if any) held by each and the dates when they respectively became holders of record thereof;

(e) a copy of these By-laws;

(f) a copy of the Corporation's application for recognition of exemption with the Internal Revenue Service; and

(g) copies of the past three (3) years' information returns and Form 990-T's (if any) filed with the Internal Revenue Service.

Any of the books, minutes and records of the Corporation may be in written form or in any other form capable of being converted into written form within a reasonable time.[4]

Section 2. Loans to Directors and Officers. No loans shall be made by the Corporation to its Directors or officers, or to any other Corporation, firm, association, or other entity in which one or more of its Directors or officers are Directors or officers or hold a substantial financial interest except as allowed by law.

Section 3. Fiscal Year. The fiscal year of the Corporation shall begin on January 1st and end on December 31st.

ARTICLE IX

AMENDMENTS

The By-laws of the Corporation may be amended or repealed by a majority of the members present at a duly called meeting of the members; provided that the Board of Directors, by majority vote of the entire Board, may approve amendments to these By-laws necessary to comply with applicable law.

[4] We recommend adding this to confirm that the storage of records by electronic means is okay.