

## **BYLAWS OF THE MASSACHUSETTS BAR FOUNDATION, INC**

(Adopted by the MBF Fellows on 3/5/2015 and amended by the MBF Trustees on 1/22/2019 and ratified by the MBF Fellows on 3/5/2019)

### **ARTICLE I Fellows**

#### **1. Fellowship and Election**

Fellows of the Massachusetts Bar Foundation, Inc. (the "Foundation"), as that term is used in these Bylaws, shall be those members of the Massachusetts Bar Association ("MBA") nominated from time to time as such by the Trustees (the "Trustees") of the Foundation. Fellows shall not exceed five (5) percent of the attorneys admitted to practice in Massachusetts from time to time. The Trustees, at any meeting of the Trustees, may nominate additional Fellows

(a) Fellows: Each Fellow shall contribute to the Foundation an amount to be determined by the Trustees from time to time, payable in installments over a period of years determined by the Trustees, but not less than annually. Should the Trustees determine to increase the contribution required to become a Fellow, or reduce the time period for paying any such contribution, such changes shall apply only prospectively to Fellows nominated or re-enrolled after the effective date of any such change, and shall not apply to Fellows in good standing. More than one classification of Fellows may be designated by the Trustees, differentiated by the level of contribution to be made.

(b) Life Fellows: Upon payment of the amount and within the time period so determined, a Fellow shall become a Life Fellow. Life Fellows shall enjoy the same privileges of membership as Fellows, except that a Life Fellow shall not be considered in computing the limitation on the number of Fellows to be admitted to membership. More than one type of Life Fellow may be designated by the Trustees, with any such differentiations to be determined by the level of total contributions made during their time as a Fellow.

(c) Contributions: The Trustees shall have the power to make policy regarding annual contributions. Said policies shall be in writing and provided to each fellow with an annual notice of contributions due. All contributions made by Fellows shall be used at the discretion of the Trustees. The Foundation shall have no claim against a Fellow or his estate if a Fellow fails to make his or her annual contributions, nor shall a Fellow have a claim against the Foundation for a refund of such contributions. A Fellow may be removed or suspended from membership if he or she fails to make his or her annual contribution according to policy in effect at the time. Once removed or suspended from membership, a Fellow may be re-enrolled by paying all unpaid contributions and by making such additional contributions as may be determined by the Trustees from time to time to be applicable to re-admittees at the time of re-enrollment.

#### **2. Annual Meeting**

The Trustees shall determine the date, hour, place and manner of conducting the Annual Meeting, provided that such Annual Meeting shall be scheduled to occur within six (6) months

after the end of the fiscal year of the Foundation. The Trustees or the President may specify the purposes for which the Annual Meeting is to be held, in addition to those prescribed by law, the Articles of Organization, or these Bylaws. If the Annual Meeting is not held in accordance with the foregoing provisions, a special meeting may be held in place thereof with all the force and effect of an Annual Meeting.

### **3. Special Meetings**

Special meetings of the Fellows may be called by the President, any two officers or by five (5) Trustees, designating the date, hour and place thereof. Upon the written application of Fellows representing at least a quorum of Fellows required for vote at the Annual Meeting, the Secretary, or in case of the death, absence, incapacity, or refusal of the Secretary, any other Officer of the Foundation shall call special meetings.

### **4. Place of Meetings**

All meetings of the Fellows shall be held at the principal office of the Foundation, unless the Trustees or the President fixes a different place and stated in the notice of the meeting.

### **5. Notice of Meetings**

Written notice of every meeting of the Fellows, stating the date, hour and place thereof, and the purposes for which the meeting is to be held, shall be mailed, e-mailed, faxed or delivered by hand at least seven (7) days before the meeting, by the Secretary, or by the person calling the meeting. The notice shall include a written proxy for use by each Fellow to record his/her vote if unavailable to participate in the meeting in person. Notice shall be given to each Fellow entitled to vote by leaving, by copy or by fax such notice with him or her or at his or her residence or usual place of business as it appears in the Foundation's records or by mailing it postage prepaid and addressed to, or e-mailing such Fellow at his or her address as it appears in the records of the Foundation. Notice need not be given to a Fellow if a written waiver of notice, executed before or after any meeting by such Fellow or by his or her duly authorized attorney, is filed with the records of the meeting.

### **6. Quorum**

Twenty-Five (25) Fellows entitled to vote or the equivalent in written proxy votes shall constitute a quorum for the transaction of business at all meetings of the Fellows. In the absence of a quorum, any meeting may be adjourned, and such meeting shall thereupon be adjourned, without further notice. One or more Fellows may participate in a meeting by telephone or similar communications equipment through which all persons participating in the meeting can communicate with each other at the same time. Such participation in a meeting shall constitute presence in person at such meeting.

### **7. Voting and Proxies**

At all meetings of the Fellows, each voting Fellow shall have one vote, unless otherwise provided by law, and a Fellow may vote in person or by written proxy submitted to the Secretary in advance of the meeting. No proxy dated more than 30 days before the meeting named therein shall be valid and no proxy shall be valid after the final adjournment of such

meeting. A proxy purporting to be executed by or on behalf of a Fellow shall be deemed valid unless challenged at or prior to its exercise and the burden of proving invalidity shall rest upon the challenger.

### **8. Action at Meeting**

When a quorum is present at any meeting of the Fellows, a majority of the Fellows present and voting on a matter, except where a larger vote is required by law, the Articles of Organization, or these Bylaws, shall decide any matter to be voted on by the Fellows. Any action by Fellows shall be determined by a plurality of the votes cast by the Fellows entitled to vote at such meeting. No ballot shall be required for any action, including without limitation, an election, unless at least 50% of the Fellows present at the meeting and entitled to vote request such a ballot.

### **9. Action Without Meeting**

Any action to be taken by Fellows may be taken without a meeting if two-thirds of all Fellows entitled to vote on the matter consent to the action by a writing filed with the records of the meetings of Fellows. Such consent shall be treated for all purposes as a vote at a meeting.

### **10. Nominations and Elections**

(a) **Nominating Committee Report**: Sixty (60) days prior to a meeting of the Fellows called for the purpose of electing Officers and Trustees, the President shall appoint a Nominating Committee of three (3) Fellows who are not Foundation Officers or Trustees. Not later than thirty (30) days prior to a meeting of the Fellows called for the purpose of electing Officers and Trustees, the Nominating Committee shall file with the Secretary a report containing nominations for President, Vice President, Treasurer, Secretary, and such other Officers as the Trustees may determine, to be chosen from the Trustees then in office, and for a class of five (5) new Trustees composed of one (1) judicial Trustee (the "Judicial Trustees"), chosen from the courts of this Commonwealth, one (1) Trustee nominated by the President of the MBA (the "MBA Trustees") and an additional three (3) Trustees (the "Additional Trustees"). At least one of the new class of additional Trustees shall have their principal place of business outside of Suffolk County. Such Nominating Committee report shall be mailed to all Fellows with a copy of this Article I, §10 and with the notice of meeting required by these Bylaws.

(b) **Additional Nominations**: Additional nominations may be made for Officers and the Additional Trustees at any meeting called for the purpose of electing Officers and Trustees, provided that such nominations are presented in writing to the Secretary of the Foundation at the time of such meeting and that such nominations are supported by the signatures of at least fifty (50) Fellows in good standing. Additional nominations may not be made for MBA Trustees or Judicial Trustees nominated by the Nominating Committee.

(c) **Annual Election**: The Fellows shall elect Officers and Trustees annually at a meeting called for that purpose.

## **ARTICLE II The Board of Trustees**

### **1. Powers**

The business of the Foundation shall be managed by twenty (20) Trustees, all of whom shall be Fellows, and the Trustees shall exercise all the powers of the Foundation, except as otherwise provided by law, the Articles of Organization, or these Bylaws. In the event of a vacancy among the Trustees, the remaining Trustees, except as otherwise provided by law, may exercise the powers of the full Trustees until the vacancy is filled.

(a) Composition of the Board: The Board of Trustees shall be comprised of twenty (20) Trustees: four (4) MBA Trustees, four (4) Judicial Trustees, and twelve (12) Additional Trustees. The Office of Past President shall be added as an additional Trustee when a president has served his/her term in office and but for this provision would have finished his/her term as a Trustee. Service as a Past President shall be limited to one (1) year. For those years when a Past President shall serve as a Trustee, the Board shall be managed by twenty-one (21) Trustees.

(b) Board Terms: Trustees shall serve staggered terms of four (4) years each, and shall be classified, with respect to the time for which they severally hold office, into four (4) classes, as nearly equal as possible. The term of office of each class of Trustees shall continue until the fourth Annual Meeting of the Foundation following their election and until their successors are duly elected and qualified. No Trustee shall serve for more than two (2) consecutive terms of four (4) years each. A former Trustee shall be eligible to serve on the Board for additional terms as set forth by these Bylaws to commence no sooner than one year following the termination of the prior service of such Trustee as a member of the Board of Trustees. If a person is elected as an officer for a year immediately following expiration of his/her term as a Trustee and is not eligible for, or is nominated but not elected for, a succeeding term as Trustee that person shall by virtue of his/her election as an officer (if elected) be deemed elected as Trustee for up to two additional one-year terms that person is eligible to be elected to serve as president. The number of Trustees can exceed 20 for that year or years in any such case or cases.

(c) Vacancies: Any Trustee vacancy, however occurring, shall be filled by majority vote of the Trustees then in office and such new Trustee shall serve until the next Annual Meeting of the Fellows.

### **2. Enlargement of the Board**

The number of Trustees may be increased and one or more additional Trustees elected, by vote of a 2/3 majority of the Fellows present and voting at any regular or special meeting of the Fellows called for such purpose.

### **3. Tenure**

Except as otherwise provided by law, the Articles of Organization, or these Bylaws, each Trustee shall hold office until the fourth Annual Meeting of the Fellows following his or her election and thereafter until their successors are elected. Any Trustee may resign by delivering his or her

written resignation to the President, at the Foundation's principal office. Such resignation shall be effective upon receipt, unless it is specified to be effective at some other time or upon the happening of some other event.

#### **4. Removal**

A Trustee may be removed from office (i) with or without cause by vote of 2/3 of the Fellows entitled to vote in the election of Trustees, or (ii) with or without cause by vote of two-thirds (2/3) of the Trustees then in office. A Trustee may be removed for cause only after reasonable notice and opportunity to be heard before the body proposing to remove him.

#### **5. Meetings**

Regular meetings of the Trustees may be called by the President or by any Officer acting in the President's absence or incapacity, at such place and at such time as the Trustees may from time to time determine, provided that any Trustee who is absent when such determination is made shall be given written notice of the date, hour and place of any such meeting. A regular meeting of the Trustees may be held immediately prior to or immediately following the Annual Meeting of Fellows, without call or notice, at the same place as the Annual Meeting of Fellows, or a special meeting held in lieu thereof, provided either that (i) every Trustee is present when the Annual Meeting date is fixed, or (ii) any absent Trustee receives the minutes of such regular meeting. Special meetings of the Trustees may be held upon the oral or written call of the President, any two Officers, or five (5) or more Trustees, designating the date, hour and place thereof. Trustees may not vote by proxy. One or more Trustees may participate in a meeting by telephone or similar communications equipment through which all persons participating in the meeting can communicate with each other at the same time. Such participation in a meeting shall constitute presence in person at such meeting.

In order to fulfill Trustee responsibilities, Trustees are expected to be in attendance at all Foundation meetings and events. Failure to attend three (3) duly called meetings of the Board of Trustees in any Foundation year (period of time from one Annual Meeting of the Fellows to the next Foundation Annual Meeting of the Fellows) without just cause shall constitute reasonable cause to remove a Trustee, pursuant to Article II, §4 of these Bylaws.

#### **6. Notice of Special Meetings**

Notice of the date, hour and place of all special meetings of the Trustees shall be given to each Trustee by the Secretary or an Assistant Secretary, or, in case of the death, absence, incapacity, or refusal of such person, by any officer or one of the Trustees calling the meeting. Notice shall be given to each Trustee either in person, by telephone, or by telegram sent to the Trustee's business or home address at least forty-eight (48) hours in advance of the meeting, or by written notice mailed, or sent by facsimile, electronic mail or any other form of electronic media communications to such business or home address at least forty-eight (48) hours in advance of the meeting. Notice need not be given to a Trustee if a written waiver of notice is executed by such Trustee before or after a meeting and is filed with the records of the meeting, or if a Trustee attends a meeting without protesting the lack of notice prior thereto or at its

commencement. A notice or waiver of notice of a meeting of the Trustees need not specify the purpose of the meeting.

### **7. Quorum**

At any meeting of the Trustees, a majority of the Trustees then in office shall constitute a quorum. Less than a quorum may adjourn any meeting from time to time, and the meeting may be held as adjourned without further notice. One or more Trustees may participate in a meeting by telephone or similar media communications equipment, by which all persons participating in the meeting can communicate with each other at the same time. Such participation in a meeting shall constitute presence in person at such meeting.

### **8. Action at Meeting**

At any meeting of the Trustees at which a quorum is present, a majority of those present may take any action on behalf of the Trustees, except to the extent that law, the Articles of Organization, or these Bylaws require a larger number.

### **9. Action Without Meeting**

Any action by the Trustees may be taken without a meeting if a written consent thereto is signed by two-thirds of the Trustees then in office and filed with the records of the meetings of the Trustees. Such consent shall be treated as a vote of the Trustees for all purposes.

### **10. Committees**

By vote of a majority of the Trustees then in office, the Trustees may elect from their number an Executive Committee, or other committees. By like vote, the Trustees may delegate some or all of their powers to those committees, except those, which by law, the Articles of Organization, or by these Bylaws they are prohibited from delegating. In no event, shall the Trustees delegate the following powers to any committee:

- The power to change the principal office of the Foundation.
- The power to amend these Bylaws.
- The power to elect Officers required by law, the Articles of Organization, or these Bylaws to be elected by the Fellows or the Trustees and the power to fill vacancies in any such offices.
- The power to remove Officers from office or Trustees.
- The power to authorize a merger of the Foundation.

Except as the Trustees may otherwise determine, any such committee may make rules for the conduct of its business, but, unless otherwise provided by the Trustees or in such rules, its business (including the keeping of a record of its meetings) shall be conducted similar to the manner provided by these Bylaws for the Trustees, including the ability to participate in meetings telephonically or by other form of media communication, and to act by written consent in lieu of a meeting, as provided herein. Each such committee shall report its action to the Trustees, which shall have the power to rescind any action taken. However, in the case of the Executive Committee no such rescission shall have retroactive effect.

## **ARTICLE III Officers**

### **1. Enumeration**

The Officers of the Foundation shall consist of a President, a Vice President, a Treasurer, a Secretary, and a Past President. The Officers of the Foundation may include such other Officers as the Trustees may determine, including Assistant Treasurers and Assistant Secretaries.

### **2. Election**

The President, Treasurer, Vice President, Secretary, and such other Officers as the Trustees may determine shall be elected annually from the members of the existing board as provided in Article I, Section 10 (c) of these Bylaws

### **3. Qualification**

The President, Vice President, Treasurer, Secretary, and such other Officers as the Trustees may determine must be Trustees. The same person may not hold two or more offices. The Secretary shall be a resident of Massachusetts, unless the Foundation has a resident agent appointed for the purpose of service of process.

### **4. Tenure**

Except as otherwise provided by law, by the Articles of Organization, or by these Bylaws, the President, Treasurer, and Secretary and all other Officers shall hold office until the next Annual Meeting of Fellows and until their respective successors are chosen and qualified, unless a shorter term is specified in the vote choosing or appointing them. Any Officer may resign by delivering his written resignation to the President, Vice President, Secretary, or Treasurer at the principal office of the Foundation, and such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event. No Officer may serve in the same office for more than two (2) consecutive years.

### **5. Removal**

The Trustees may remove any Officer with or without cause, provided that an Officer may be removed for cause only after reasonable notice and opportunity to be heard by the Trustees.

### **6. Vacancies**

Any vacancy, however arising, in any office, may be filled for the unexpired portion of the term thereof by the Trustees.

### **7. President, Vice President, and Past President**

The President shall be the Chief Executive Officer of the Foundation and shall preside at all Foundation meetings and shall perform such other duties and have such other powers as may be designated from time to time by the Trustees. The President and Vice President shall be ex-officio members of all committees of the Foundation. Subject to the direction of the Trustees, the President shall have general supervision and control of the business and Officers of the Foundation. The Vice President shall perform such duties and have such powers as may be

designated from time to time by the Trustees and shall assume the duties of the President for any meeting or period of time during which the President is unable to serve. In the event of the resignation, incapacity, or death of the President, the Vice President shall serve out the remainder of that President's Term. The Past President shall perform such duties and have such powers as may be designated from time to time by the Trustees.

#### **8. Treasurer and Assistant Treasurers**

The Treasurer shall, subject to the direction of the Trustees, have general charge of the financial affairs of the Foundation and shall cause to be kept accurate books of account of the affairs of the Foundation. The Treasurer shall be chair of the Budget and Finance Committee and shall have custody of all funds, securities, and valuable documents of the Foundation, except as the Trustees may otherwise provide, and shall report periodically on the Foundation's financial condition to the Fellows and to the Trustees. In addition, the Treasurer shall perform such other duties and have such other powers as may be designated from time to time by the Trustees. Each Assistant Treasurer shall perform such duties and have such powers as may be designated from time to time by the Trustees.

#### **9. Secretary and Assistant Secretaries**

The offices of Secretary and Clerk shall be one and the same, and such Officer shall attend and keep a record of all the meetings of Fellows. In addition, the Secretary shall perform such other duties and have such other powers as may be designated from time to time by the Trustees. Each Assistant Secretary shall perform such duties and have such powers as may be designated from time to time by the Trustees. In the absence of the Secretary from any meeting of the Fellows, an Assistant Secretary, if one is chosen, otherwise a Temporary Secretary designated by the person presiding at the meeting, shall perform the duties of the Secretary at such meeting. The Secretary shall keep or cause to be kept, at the principal office of the Foundation in Massachusetts or at his office if in Massachusetts, the records of the Foundation relating to Fellows, including the names of all Fellows and their record addresses.

#### **10. Other Officers**

Each other Officer, if any, chosen by the Trustees shall perform such duties and have such powers as may be designated from time to time by the Trustees.

#### **11. Other Powers and Duties**

No Officer shall serve in the same office for more than two (2) consecutive years. Subject to these Bylaws, each Officer shall have such duties and powers as are customarily incident to his or her office. The exercise of any power which by law, the Articles of Organization, or these Bylaws, or under any vote of the Fellows or the Trustees, may be exercised by an Officer of the Foundation only in the event of absence of another Officer or any other contingency, shall bind the Foundation in favor of anyone relying thereon in good faith, whether or not such absence or contingency existed.

### **ARTICLE IV Indemnification of Trustees, Officers and Others**



The Foundation, to the extent legally permissible, shall indemnify each person who may serve or who has served at any time as a Trustee, Officer or Committee member of the Foundation or of any of its subsidiaries, or who at the request of the Foundation may serve or at any time has served in a similar capacity with another organization or an employee benefit plan, against all expenses and liabilities (including counsel fees, judgments, fines, excise taxes, penalties and amounts payable in settlements) reasonably incurred by or imposed upon such person in connection with any threatened, pending or completed action, suit or other proceeding, whether civil, criminal, administrative or investigative, in which such person may become involved by reason of serving or having served in such capacity (other than a proceeding voluntarily initiated by such person unless he or she is successful on the merits, the proceeding was authorized by the Foundation or the proceeding seeks a declaratory judgment regarding his or her own conduct); provided however, that no indemnification shall apply with respect to any such person for any matter as to which he or she shall have been finally adjudicated in any proceeding not to have acted in good faith in the reasonable belief that his or her action was in the best interests of the Foundation or, to the extent such matter relates to service with respect to any employee benefit plan, in the best interests of the participants or beneficiaries of such employee benefit plan; and provided further, that as to any matter disposed of by a compromise payment by such person, pursuant to a consent decree or otherwise, the payment and indemnification thereof have been approved by the Foundation, which approval shall not unreasonably be withheld, or by a court of competent jurisdiction. Such indemnification shall include payment by the Foundation of expenses incurred in defending a civil or criminal action or proceeding in advance of the final disposition of such action or proceeding, upon receipt of an undertaking by the person indemnified to repay such payment if he or she shall be adjudicated to be not entitled to indemnification under this Article IV, which undertaking may be accepted without regard to the financial ability of such person to make repayment.

A person entitled to indemnification hereunder whose duties include service or responsibilities as a fiduciary with respect to a subsidiary or other organization shall be deemed to have acted in good faith if he or she acted in the reasonable belief that such action was in the best interests of such subsidiary, participants, beneficiaries or other organization to which or whom he or she had a fiduciary duty.

Where indemnification hereunder requires authorization or approval by the Foundation, such authorization or approval shall be conclusively deemed to have been obtained, and whenever a Trustee of the Foundation votes to approve the payment of indemnification, such Trustee shall be wholly protected, if:

(i) the payment has been approved or ratified by a majority vote of a quorum of the Trustees consisting of persons who are not at that time parties to the proceeding, or by a majority vote of a committee of one or more Trustees who are not at that time parties to the proceeding and are selected for this purpose by the full Board (in which selection Trustees who are parties may participate); or

(ii) the action is taken in reliance upon the opinion of independent legal counsel (who may be counsel to the Foundation) appointed for the purpose by vote of the Trustees or in the manner specified in this or the preceding paragraph; or

(iii) the payment is approved by a court of competent jurisdiction; or

(iv) the Trustees have otherwise acted in accordance with the applicable legal standard of conduct.

Any indemnification or advance of expenses under this section shall be paid promptly, and in any event within 30 days, after the receipt by the Foundation of a written request therefor from the person to be indemnified, unless with respect to a claim for indemnification the Foundation shall have determined that the person is not entitled to indemnification. If the Foundation denies the request or if payment is not made within such 30-day period, the person seeking to be indemnified may at any time thereafter seek to enforce his or her rights hereunder in a court of competent jurisdiction and, if successful in whole or in part, he or she shall be entitled also to indemnification for the expenses of prosecuting such action. Unless otherwise provided by law, the burden of proving that the person is not entitled to indemnification shall be on the Foundation.

The right of indemnification under this Article shall be a contract right inuring to the benefit of the Trustees, Officers and other persons entitled to be indemnified hereunder and no amendment or repeal of this Article shall adversely affect any right of such Trustee, Officer or other person existing at the time of such amendment or repeal.

The indemnification provided hereunder shall inure to the benefit of the heirs, executors and administrators of a Trustee, Officer or other person entitled to indemnification hereunder. The indemnification provided hereunder may, to the extent authorized by the Foundation, apply to the Trustees, Officers and other persons associated with constituent corporations that have been merged into or consolidated with the Foundation who would have been entitled to indemnification hereunder had they served in such capacity with or at the request of the Foundation.

The right of indemnification under this Article shall be in addition to and not exclusive of all other rights to which such Trustee, Officer or other person may be entitled. Nothing contained in this Article shall affect any rights to indemnification or protection to which Foundation employees or agents, other than Trustees, Officers and other persons entitled to indemnification hereunder, may be entitled by contract, applicable insurance coverages, or otherwise by law.

## **ARTICLE V Miscellaneous Provisions**

### **1. Fiscal Year**

Except as from time to time otherwise determined by the Trustees, the fiscal year of the Foundation shall end on December 31 in each year.

## **2. Seal**

If the Trustees determine to adopt a seal of the Foundation, such seal shall, subject to alteration by the Trustees, bear the name of the Foundation, the word "Massachusetts," and the year of organization of the Foundation.

## **3. Execution of Instruments**

All deeds, leases, transfers, contracts, bonds, notes and other obligations authorized to be executed by an Officer of the Foundation on its behalf shall be signed by the President or the Treasurer singly, or the President and Treasurer together, except as the Trustees may generally or otherwise determine.

## **4. Voting of Securities**

Except as the Trustees may otherwise designate, the President or Treasurer may waive notice of and act on behalf of the Foundation, or appoint any person or persons to act as proxy or attorney in fact for the Foundation (with or without discretionary power and/or power of substitution) at any meeting of members, shareholders, or beneficial owners of any other Foundation or organization, any of the securities of which may be held by the Foundation.

## **5. Corporate Records**

The original, or attested copies, of the Articles of Organization, these Bylaws, all policy statements of the Board and records of all meetings of the Fellows which shall contain the names and the record address of all Fellows, Trustees and Officers, shall be kept in Massachusetts at the principal office of the Foundation. Said copies and records need not all be kept in the same office, and shall be available at reasonable times for the inspection of any Fellow, Trustee or Officer for any proper purpose, but shall not be used to secure a list or other information for the purpose of selling said list or information or copies thereof or of using the same for a purpose other than in the interest of the Foundation. Except as may be otherwise required by law, by the Articles of Organization, or by these Bylaws, the Foundation shall be entitled to treat the record address of a Fellow, Trustee or Officer as shown on its books as the address of such person for all purposes, including the giving of any notices; and it shall be the duty of each such person to notify the Foundation of his latest post office address.

## **6. Evidence of Authority**

A certificate by the Secretary, or an Assistant Secretary as to any action taken by the Fellows, Trustees, or any Officer or representative of the Foundation shall, as to all who rely thereon in good faith, be conclusive evidence of such action.

## **7. Ratification**

Any action taken on behalf of the Foundation by a Trustee or any Officer or representative of the Foundation which requires authorization by the Fellows or by the Trustees shall be deemed

to have been duly authorized if subsequently ratified by the Fellows, if action by them was necessary for authorization, or by the Trustees, if action by it was necessary for authorization.

### **8. Articles of Organization**

All references in these Bylaws to the Articles of Organization shall be deemed to refer to the Articles of Organization of the Foundation, as amended, and in effect from time to time.

### **9. Compensation for Services**

No Officer or Trustee of the Foundation shall receive any compensation from the Foundation for his or her services as such. An Officer or Trustee may be reimbursed for his or her reasonable expenses actually and necessarily incurred in performing his or her duties as such. The compensation and other terms of employment of the Executive Director shall be fixed in such amounts and on such basis as the Officers may deem just and reasonable and as shall be consistent with policies and regulations of general application adopted by the Trustees.

### **10. Gifts to the Foundation; Management of Funds**

All gifts made to and accepted by the Foundation shall be made and accepted for use for its purposes and shall be administered pursuant to these Bylaws as from time to time lawfully amended. The Foundation may decline to accept any particular gift, as the Trustees may deem advisable. Restrictions imposed upon any such gifts by the donors thereof may be released in accordance with Chapter 180A of the Massachusetts General Laws, or other applicable law. The Trustees shall manage the funds and assets of the Foundation and shall have sole and full charge of the investment and administration thereof, in accordance with Chapter 180A of the Massachusetts General Laws and other applicable law.

## **ARTICLE VI Conflict of Interest and Prohibited Transactions**

### **1. Conflict of Interest.**

The Board shall adopt a Conflict of Interest Policy, preserved in writing and with other policies as provided for in Article V, Section 5 of these Bylaws.

### **2. Prohibited Transactions/Exception.**

(a) Loans – The Foundation shall not make any loan of money or property to, or guarantee the obligation of, any Trustee, Officer or Committee member; provided, however, that the Foundation may advance money to a Trustee or an Officer or a Committee member for expenses reasonably anticipated to be incurred in performance of the duties of such Trustee or Officer or Committee member so long as such individual would be entitled to be reimbursed for such expenses, absent such advance.

(b) Self-Dealing Transactions – Except as provided in Section (c) below, the Trustees shall not approve or permit the Foundation to engage in, any self-dealing transaction. A self-dealing transaction is a transaction to which the Foundation is a party and in which one or more of its Trustees, Officers or Committee members has a material financial interest, including, but not

limited to, the payment of compensation to any such person for services as an employee or independent contractor.

(c) Approval – The Foundation, or any Fellow, Trustee, or Officer thereof may engage in a self-dealing transaction if the Trustees determine, before the transaction and full disclosure thereof, that (a) the Foundation or such Fellow, Officer or Trustee is entering into the transaction for its, or his or her own benefit; (b) the transaction is fair and reasonable to the Foundation or such Fellow, Officer or Trustee at the time; and (c) after reasonable investigation, the Trustees determine that it could not have obtained a more advantageous arrangement with reasonable effort under the circumstances. Such determinations must be made by the Trustees in good faith, with knowledge of all material facts concerning the transaction and the interest of a Fellow, Trustee, or Officer in the transaction, and by a vote of a majority of the Trustees then in office, without counting the vote of any interested person or persons.

Notwithstanding the foregoing, a self-dealing transaction otherwise permitted under this Article VI shall not be permitted by the Trustees if the effect thereof would be to cause the loss of the tax-exempt status of the Foundation under the Internal Revenue Code of 1986, as amended from time to time; nor may such transaction be permitted if the effect thereof would be to subject the Foundation, its Fellows, Trustees, Officers or agents to any penalty or fine under said Code or under any other applicable law as a result of such exercise, it being the purpose of this Article VI to allow only such transactions by the Foundation as are not prohibited by said Code or any other applicable law.

## **ARTICLE VII Amendments**

These Bylaws may at any time be amended or repealed, in whole or in part, by vote of a majority of the Fellows at a meeting duly called for such purpose, provided that the substance of any proposed change must be stated in the notice of the meeting at which such action is to be taken. Any amendments or repeal of a Bylaw made by the Trustees which changes the date of the Annual Meeting of Fellows, or which alters the provisions of these Bylaws with respect to removal of Trustees, Indemnification of Trustees and Officers, amendment of these Bylaws, or which by law or the Articles of Organization requires action by the Fellows, must be approved by majority vote of the Fellows. Not later than the time for giving notice of the meeting of Trustees next following the making, amending or repealing by the Trustees of any Bylaw, notice thereof stating the substance of such change shall be given to all Fellows entitled to vote, and any Bylaw adopted by the Trustees may be amended or repealed by the Fellows.