

# Asheville Buncombe Adult Soccer Association, Inc. Bylaws

## ARTICLE I

### Name, Purposes, Powers and Offices

1.01 **Name.** The name of this organization is Asheville Buncombe Adult Soccer Association, Inc. ("ABASA").

1.02 **Purposes.** The purposes for which the Corporation is organized are:

(a) To operate exclusively as a qualified amateur sports organization for purposes of fostering amateur soccer, competition and recreational activities by supporting and developing amateur soccer and recreational facilities and programs within the meaning of 501(c)(4) and 501(j) of the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any future United States Internal Revenue laws (the "Code");

(b) To serve Asheville, Buncombe County and Western North Carolina by administering amateur soccer and recreational facilities and programs within the meaning of 501(c)(4) and 501(j) of the Internal Revenue Code;

(c) Notwithstanding any other provision of these Bylaws, the purposes for which the Corporation is organized are exclusively charitable, scientific, literary, and educational within the meaning of 501(c)(4) of the Internal Revenue Code of 1986 or the corresponding provision of any future United States Internal Revenue Code.

(d) The Corporation is irrevocably dedicated to and operated exclusively for, nonprofit purposes; no part of the income or assets of the Corporation shall be distributed to, nor inure to the benefit of any individual.

(e) To lessen the burdens of government, and to provide aid and assistance to the local government in carrying out its essential government functions as it relates to amateur soccer opportunities for participation within the community.

1.03 **Powers.** ABASA shall have such powers as are now or may hereafter be granted by Chapter 55A of the North Carolina General Statutes, known as the North Carolina Nonprofit Corporation Act (The Act).

1.04 **Affiliation.** ABASA will be affiliated with the North Carolina Adult Soccer Association (NCASA), through NCASA the United States Adult Soccer Association (USASA), the United States Soccer Federation (USSF), and other associations as may be deemed appropriate.

1.05 **Compliance.** ABASA will comply with the governing rules and regulations of NCASA and USASA.

1.06 **Principal Office.** The principal office of the Corporation, if deemed necessary to establish, shall be located in the County of Buncombe, State of North Carolina.

1.07 **Registered Office and Registered Agent.** The registered office of the Corporation required by law to be maintained in the State of North Carolina may be, but need not be, identical with the principal office, and the address of the registered office may be changed from time to time as provided in the Act. The Corporation shall also maintain a registered agent in the State of North Carolina.

## **ARTICLE II**

### **Meetings of Participants**

2.01 **Participants.** Each registered team, deemed to be in good standing with the organization, shall be a participant ("Participant") in the Corporation. Each Participant shall have one vote at the Annual Participant's or Captain's meeting as needed or other Participant meetings called by the Corporation. As it deems appropriate, the Corporation may designate its traditional annual or biannual Captain's meeting as the Annual Participants meeting. For the purpose of these by-laws, a Participant in good standing is defined as a Participant who has participated in league play during the preceding twelve months, and who is current as to all registration and other fees due the Corporation.

2.02 **Place of Meetings.** All meetings of Participants shall be held at the principal office of the Corporation or at such other place, either within or without the State of North Carolina, as shall be designated by the Board of Directors or, upon the failure of the Board to make such designation, by the President and set forth in the notice of the meeting.

2.03 **Annual Meeting.** The annual meeting of Participants shall be held at the designated location at a date and an hour fixed by the Board of Directors for the

purpose of the transaction of such corporate business as may be properly brought before the meeting. The annual meeting shall occur no later than two months after the close of the fiscal year or as otherwise meets the needs of the Corporation.

**2.04 Special Meetings.** Special meetings of the Participants may be called at any time by a majority of the Board of Directors of the Corporation, or by petition of at least five (5) Participants.

**2.05 Notice of Meetings.** Written, printed, electronic or facsimile notice stating the time and place of a meeting of Participants shall be delivered not less than fourteen days (14) prior to the date and time of the Annual Meeting, and not less than five days (5) prior to the date and time of a Special Meeting. Unless a meeting is adjourned to a new date, time or place, and such new date, time or place is not announced at the meeting prior to adjournment notice of the adjourned meeting need not be given.

**2.06 Voting List and Record Date.** The Board of Directors shall establish a record date for each meeting of Participants, and only Participants in good standing as of such record date shall be entitled to vote at such meeting. The Board may establish such procedures and rules for the determination of the good standing of Participants as it may deem reasonable and necessary. A record of all votes brought before the membership will be kept by the Secretary and recorded in the minutes of the meeting.

**2.07 Quorum.** The presence of a majority of Participants represented in person shall constitute a quorum for any needed action at an annual meeting. If there is no quorum at the opening of a meeting of Participants, such meeting may be adjourned from time to time by the vote of a majority of the Participants voting on the motion to adjourn; and, at any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the original meeting. Once a Participant is represented for any purpose at a meeting, he or she is deemed present for the remainder of the meeting and any adjournment thereof unless a new record is or, under the Act, must set for that adjourned meeting.

**2.08 Voting Rights.** Subject to the Articles of Incorporation, each Participant shall be entitled to one vote and a simple majority of those Participants voting shall be required for any business that may require a vote, including but not limited to: corporate dissolution, sale of substantially all assets of the

Corporation, amendment to the charter of the Corporation, and other matters that require ratification under statute. Each Director (as defined in Article III: Directors) will also have one vote. Directors may not vote as a Director (or Divisional Director) and a Participant. The President and the Secretary of the Corporation are authorized to establish all reasonable and necessary procedures to permit the casting of votes by Participants. The determination of whether acceptable evidence has been presented by a person or entity to establish his, her or its authority to vote shall be made by the Board of Directors. Voting by proxy shall only be allowed as provided for in writing by the Board of Directors.

2.09 **Presiding Officer.** The President shall preside at the Participants' meetings. In the President's absence, the Secretary, or any person designated by the President shall act as presiding officer of such meetings.

## **ARTICLE III**

### **Directors**

3.01 **General Powers.** All corporate powers, except those delegated to the Participants in Section 2.08, shall be exercised by and under the authority of, and the business and affairs of the Corporation shall be managed under the direction of, the Board of Directors.

3.02 **Number and Qualifications.** The number of directors of the Corporation shall be at least five (5) and no more than fifteen (15). The Board of Directors shall have the authority to designate titles and responsibilities for board members as needed based upon the then current needs of league(s). For example, one (1) "Division Rep" representing each of the Corporation's competition divisions would typically be such a designation. These designations will typically be determined annually to include every level of competition offered and other needs of the league(s) during a fiscal year, being elected or appointed (as required) by the Board of Directors at its Annual Meeting or as otherwise needed or required.

3.03 **Terms of Directors.** The terms of the Directors of the Corporation shall be for two (2) years. Directors may serve consecutive terms. The Board of Directors will formally track such terms to ensure a smooth transition as new board members are elected or appointed. President and Treasurer should be same terms yet opposite of Secretary and Vice-President

3.04 **Removal.** Any director may be removed from office with or without cause, including absences from three consecutive Directors' meetings, by a vote of a majority or greater vote of the Board of Directors. A director may not be removed by the Participants at a meeting unless the notice of such meeting states that the purpose, or one of the purposes, of the meeting is removal of the Director. A two-thirds (2/3) majority vote of those Participants voting shall be sufficient for removal of a Director.

3.05 **Vacancies.** A vacancy occurring in the Board of Directors shall be filled by a simple-majority vote of the remaining directors, though less than a quorum, or by the sole remaining director. A director elected to fill a vacancy shall serve the remaining term of that vacancy.

## ARTICLE IV

### Meetings of Directors

4.01 **Regular Meetings.** The Board of Directors may provide, by resolution, the time and place, either within or without the State of North Carolina for the holding of regular meetings. Unless otherwise provided by the Board of Directors, the Board shall meet at least as often as once each fiscal quarter, on the dates and at the time established as customary by the Board of Directors. An Annual Meeting of the Directors shall be held within a reasonable time before the Annual Meeting of Participants. Failure to hold an Annual Meeting shall not work a forfeiture or dissolution of the Corporation.

4.02 **Special Meetings.** Special meetings of the Board of Directors may be called by or at the request of the President or any three (3) Directors. Such meetings may be held either within or without the State of North Carolina as fixed by the person or persons calling any such meeting.

4.03 **Notice of Meetings.** When held on the dates and at the time established by the Board of Directors and reflected in official minutes of its meetings, regular meetings of the Board of Directors may be held without notice. The person or persons calling a Special Meeting must give notice thereof by written, printed, electronic, telephone, or facsimile notice stating the time and place of the meeting, and the notice shall be delivered not less than two days (2) prior to the date and time of the meeting. Notice of a special meeting of the Directors is effective at the earliest of the following: (a) when received; or, (b) upon

transmission if sent by electronic or facsimile communication. Notice of an adjourned meeting of directors need not be given if the time and place are fixed at the meeting adjournment and if the period of adjournment does not exceed ten (10) days in any one adjournment. Such notice need not specify the purpose for which the meeting is called.

**4.04 Waiver of Notice.** Any director may waive notice of any meeting by filing a written and signed waiver with the minutes of the meeting or in the Corporation's corporate records. A director's attendance at or participation in a meeting shall constitute a waiver of notice of such meeting, unless the director at the beginning of the meeting (or promptly upon his arrival) objects to holding the meeting or transacting any business at the meeting and does not thereafter vote for or assent to any action taken at the meeting.

**4.05 Quorum.** The presence of at least half of the number of directors prescribed by the Board of Directors under Section 3.02 and in office immediately prior to a meeting shall constitute a quorum for the transaction of business at that meeting of the Board; provided, however, that if a quorum is not present, a majority of the directors may adjourn the meeting from time to time without further notice except as provided in Section 4.03. A Director who will not be able to attend a meeting may provide advance written proxy to another director.

**4.06 Manner of Acting.** Except as otherwise provided in these By-Laws or the Act, the act of the majority of the Directors attending or participating in a meeting at which a quorum is present shall be the act of the Board of Directors.

**4.07 Presumption of Assent.** A Director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless (a) the Director objects at the beginning of the meeting (or promptly upon the director's arrival) to holding such meeting or transacting business at it, (b) the director shall file a written dissent or abstention to such action with the presiding officer of the meeting before the adjournment thereof or with the Corporation immediately after the adjournment of the meeting, or (c) the Director's contrary vote or abstention is entered in the minutes of the meeting. Such right to dissent or abstain shall not apply to a director who voted in favor of such action.

**4.08 Action by Directors without a called Meeting.** Action taken by the directors without a meeting is nevertheless Board action, and may be described as such, if one or more written consents to the action in question, describing the

action taken, are signed by all the directors and filed with the minutes of the proceedings of the Board of Directors or in the records of the Corporation, whether done before or after the action so taken. Action taken pursuant to this shall be effective when the last director signs a written consent to such action, unless the consent specifies a different effective date. Action taken by electronic means such as email shall be effective as long as each director submits an electronic response, all of which shall be maintained as official corporate records by the Secretary of the Corporation. A Director shall have the authority to request any action that is being taken electronically to be discontinued and added to the next regularly scheduled board meeting.

**4.09 Participation by Audio Medium.** Upon approval by the Board of Directors, any one or more directors may participate in any meeting of the Board or its committees by means of a conference telephone or similar communications medium allowing all directors participating in the meeting to hear one another simultaneously throughout the meeting. Participation by such means shall constitute presence in person at a meeting.

## **ARTICLE V**

### **Committees and Advisory Boards**

**5.01 Executive Committee.** The Board of Directors, by proper resolution, may appoint an Executive Committee which shall at least be composed of the President, the Vice-President, the Secretary and the Treasurer and which shall have and exercise the powers of the Board of Directors in the direction and management of the affairs of the Corporation, except at such time as the Board of Directors is in session. Additionally, the Board of Directors shall have the authority to appoint other members of the Executive Committee, such as the Discipline and Appeals Rep or Legal Counsel, as it sees fit to better serve the Corporation's goals and objectives. The Executive Committee shall not have authority to fill any vacant Director seats, nor shall it have authority to appoint members to any Committees of the Board of Directors. Meetings of the Executive Committee may be held at any time on the call of the President or any two (2) members of the Committee. A majority of the members of the Executive Committee shall constitute a quorum. Action by the Executive Committee shall be by majority vote of the members of the Executive Committee. The Executive Committee shall keep minutes of its meetings and shall report its actions to the next succeeding meeting of the Board of Directors. Voting by proxy shall not be provided for or permissible for purposes of the Executive Committee. The Board

of Directors shall have the power to direct, limit and control the Executive Committee, and to rescind or modify any action of the Executive Committee, by resolution at any special or regular meeting or by general rules adopted for its guidance. In addition, neither the Executive Committee nor any other committee appointed under these By-Laws shall have any authority to do any act listed in Section 55-A-8-25 of the Act including to amend the Corporation's Bylaws, amend Articles of Incorporation, and motion to dissolve the Corporation. The Executive Committee may meet by teleconference or other electronic means as it may deem appropriate.

**5.02 Other Committees.** The Board of Directors, by proper resolution, may appoint such other committees as it may deem appropriate. Each such committee shall serve at the pleasure and direction of the Board of Directors and shall typically have at least three (3) members. The Board of Directors shall have the authority to modify and amend any committee structure in any way it deems to be in the best interest of the Corporation and its goals and objectives.

**5.03 Vacancy.** Any vacancy occurring on a Board committee shall be filled by the vote of the Board of Directors required under Section 4.06.

**5.04 Removal.** Members of all committees of the Board shall serve at the pleasure of the Board. Any member of a Board committee may be removed at any time with or without cause by the vote of the Board of Directors required under Section 4.06.

**5.05 Committee Membership and Procedures.** Except as otherwise expressly provided in this Article V, the provisions of these By-Laws governing meetings, action without meetings, notice, waiver of notice, quorum, and voting requirements of the Board shall apply to each committee of the Board.

**5.06 Responsibility of Directors.** In discharging his or her duties as a director, a director shall be entitled to rely on information, opinions, reports and statements prepared or presented by a Board committee of which he or she is not a member unless he or she has actual knowledge of a matter which makes such reliance unwarranted. Such permissible reliance shall relieve such director of any responsibility or liability imposed upon him or her by law when and to the extent permitted by the Act.

## ARTICLE VI

## Officers

**6.01 Officers.** The officers of the Corporation shall consist of a President, Vice-President, a Secretary, and a Treasurer, each of whom shall have such power and duties as are set forth in these By-Laws and as may be delegated to such officer by the Board of Directors. Each Officer shall also be a member of the Board. Additionally, the Board of Directors shall have the authority to appoint additional officer positions (e.g., First Vice President, Assistant Secretary) as it sees fit to better accomplish the Corporation's goals and objectives.

**6.02 Appointment and Term.** At the Annual Meeting of Directors, the Officers of the Corporation shall be appointed by the Board of Directors for terms of two years each. Each officer shall hold office until the expiration of such officer's term as an officer or director of the Corporation prior to the stated term of his or her appointment, such officer's death, resignation, retirement, removal or disqualification, or such officer's successor is appointed and qualified. As it is able to do so based on the then-current circumstances, the Board will stagger the terms of the Officers to ensure adequate experience and knowledge during Officer transitions.

**6.03 Removal and Resignation.** Any officer appointed by the Board of Directors may be removed by the Board with or without cause whenever in its judgment the best interests of the Corporation will be served thereby. Any such removal or disqualification shall be by the vote of the Board of Directors as required under Section 4.06.

An officer may resign at any time by communicating such officer's resignation to the Corporation. A resignation is effective when it is communicated unless it specifies in writing a later effective date. If a resignation is made effective at a later date and the Corporation accepts the future effective date, the Board of Directors may fill the pending vacancy before the effective date if the Board of Directors provides that the successor does not take office until the effective date.

**6.04 President.** The President, or in his absence the Vice-President, shall chair and supervise all meetings of the Board of Directors and Participants.

The President, or in his absence the Vice-President, shall sign, with any other proper officer, any deeds, leases, mortgages, bonds, contracts, or other instruments which may be lawfully executed on behalf of the Corporation, except where required or permitted by law to be otherwise signed and executed.

The President shall oversee the affairs of the Corporation and shall have authority to act on behalf of the Board of Directors and on behalf of the Corporation as the Board of Directors may determine from time to time.

6.05 **Vice-President.** The Vice-President shall be authorized to exercise all power and authority of the President in the event of the necessary absence or the disability of the President, or a vacancy in the office of President. The Vice-President shall perform such other duties and be delegated such authority of the President as the President shall reasonably determine. It is to generally be the policy of the Corporation that, subject to proper resolution and appointment, the Vice-President would stand for election as President upon the end of the current presidency.

6.06 **Treasurer.** The Treasurer of the Corporation shall have custody of all funds and securities belonging to the Corporation and shall receive, deposit or disburse the same under the direction of the Board. The Treasurer also shall keep full and accurate accounts of the finances of the Corporation in books especially provided for that purpose; and he or she shall cause a true statement of its assets and liabilities as of the close of each fiscal year and a statement of operations for such fiscal year, all in reasonable detail, to be made and filed at the registered or principal office of the Corporation within sixty (60) days after the end of such fiscal year. The statement so filed shall be kept available for inspection by any Director and the Treasurer shall mail or otherwise deliver a copy of the latest such statement to any Director upon his written request therefore. The Treasurer, in general, shall perform all duties incident to his office and such duties as may be assigned to him from time to time by the President or the Board of Directors. Operational and/or administrative duties of the Treasury may be subcontracted following vote of the Board.

6.07 **Secretary.** The Secretary shall: (a) keep the minutes of the meetings of Participants, the Board of Directors and each committee of the Board in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by the Act; (c) be custodian of the corporate records.

## **ARTICLE VII**

### **Contracts, Loans, Checks and Deposits**

7.01 **Contracts.** The Board of Directors may delegate to any of its Officers the

authority to enter any contract, lease or other agreement, and to execute and deliver any instrument, on behalf of the Corporation which is to be entered or executed and delivered in the ordinary course of the Corporation's business. In addition, the Board of Directors may authorize any officer or officers, or agent or agents, to enter into any contract, lease or other agreement or to execute and deliver any instrument on behalf of the Corporation, whether or not such action is within the ordinary course of the Corporation's business, and such authority may be general or confined to specific instances. Any resolution of the Board of Directors authorizing the execution of any contract, lease or other agreement or delivery of any instrument of behalf of the Corporation by the proper officers of the Corporation or by officers of the Corporation generally and not specifying particular officers shall be deemed to authorize execution or delivery, as applicable, by the President or any other officer if such execution or delivery is within the scope of the duties of such other officer. The Board of Directors may authorize the Corporation to enter into employment contracts or sub-contracted terms with any of its employees or outside agents for any length of time and on any terms and conditions it deems wise.

**7.02 Loans.** No loans shall be contracted on behalf of the Corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors, and except as permitted by law.

**7.03 Checks and Drafts.** All checks, drafts or other orders for the payment of money issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as from time to time shall be determined by resolution of the Board of Directors.

**7.04 Deposits.** All funds of the Corporation not otherwise employed from time to time shall be deposited to the credit of the Corporation in such depositories as the Board of Directors shall direct.

## **ARTICLE VIII**

### **Indemnification of Directors, Officers and Others**

**8.01 Definitions.** For purposes of this Article VIII, the following definitions shall apply:

"Corporation" means the Corporation and all "predecessors" thereof; as such

term is defined in the Act.

“Director” means an individual who is or was a director of the Corporation or an individual who, while a director of the Corporation, is or was serving at the Corporation’s request as a director, officer, partner, trustee, employee or agent or another foreign or domestic Corporation, partnership, limited liability company, association, joint venture, trust, employee benefit plan at the Corporation’s request if such director’s duties to the Corporation also impose duties on, or otherwise involve services by, the director to the plan or to participants in or beneficiaries of the plan. “Director” includes, unless the context requires otherwise, the estate or personal representative of a director.

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

“Indemnified Officer” shall mean each officer of the Corporation who is also a director of the Corporation and each other officer of the Corporation who is designated by the Board of Directors from time to time as an Indemnified Officer. An Indemnified Officer shall be entitled to indemnification hereunder to the same extent as a Director, including, without limitation, indemnification with respect to service by the Indemnified Officer at the Corporation’s request as a director, officer, partner, trustee, employee or agent of another foreign or domestic Corporation, partnership, limited liability company, association, joint venture, trust, employee benefit plan or other enterprise.

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

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

**8.02 Indemnification.** In addition to, and not in any way in limitation of, all indemnification rights and obligations otherwise provided by law, the Corporation shall indemnify and hold harmless its Directors and Indemnified Officers against all Liabilities and Expenses in any Proceeding (including, without limitation, a

Proceeding brought by or on behalf of the Corporation itself) arising out of their status as Directors or officers, or their service at the Corporation's request as a Director, officer, partner, trustee, employee or agent of another foreign or domestic Corporation, limited liability company, association, partnership, joint venture, trust, employee benefit plan or other enterprise, or their activities in any such capacity; provided, however, that the Corporation shall not indemnify a Director of an Indemnified Officer against Liabilities or Expenses that such person may incur on account of activities of such person which at the time taken were known or believed by him or her to be clearly in conflict with the best interest of the Corporation. The Corporation shall also indemnify each Director and Indemnified Officer for his or her reasonable costs, expenses and attorneys' fees incurred in connection with the enforcement of the rights to indemnification granted herein, if it is determined in accordance with Section 8.03 that the Director or Indemnified Officer is entitled to indemnification hereunder.

The Board of Directors shall have the authority to adopt such resolutions pertaining to the implementation of this Section 8.02 as it may from time to time determine, and such resolutions shall be given full effect, even though they supplement, amplify or go beyond the provisions of this Section 8.02, provided and to the extent such resolution does not violate any provision of the Act or Restated Articles. This 8.02 shall be construed in a manner to fully affect the purpose and intent of the resolution of the Corporation's Board of Directors approving and adopting this provision.

**8.03 Determination.** Any indemnification under Section 8.02 shall be paid by the Corporation in a specific case only after a determination that the Director or Indemnified Officer has met the standard of conduct set forth in Section 8.02. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of directors not at the time parties to the Proceeding; if a quorum cannot be obtained under 8.03(a), by a majority vote of a committee duly designated by the Board of Directors (in which vote directors who are parties to the Proceeding may participate), consisting solely of two or more directors not at the time parties to the Proceeding; by special legal counsel (i) selected by the Board of Directors or a committee thereof in the manner prescribed in Section 8.03(a) or (b); or (ii) if a quorum of the Board of Directors cannot be obtained under Section 8.03(a) and a committee cannot be designated under Section 8.03(b), selected by a majority vote of the full Board of Directors (in which selection directors who are parties in the Proceeding may participate); or by the Participants, but votes of directors or officers who are at the time parties to the Proceeding may not be voted on the determination.

The Board of Directors shall take all such action as may be necessary and appropriate to enable the Corporation to pay the indemnification required by this Article VIII.

**8.04 Advances for Expenses.** The Expenses incurred by a Director or an Indemnified Officer in defending a Proceeding may be paid by the Corporation in advance of the final disposition of such Proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the Director or Indemnified Officer to repay such amount unless it shall ultimately be determined that such person is entitled to be indemnified by the Corporation against such Expenses. Subject to receipt of such undertaking, the Corporation shall make reasonable periodic advances for Expenses pursuant to Section 8.4, unless the Board of Directors shall determine, in the manner provided in Section 8.03 and based on the facts then known, which indemnification under this Article VIII is or will be precluded.

**8.05 Reliance and Consideration.** Any Director or Indemnified Officer who at any time after the adoption of this Article VIII serves or has served in any of the aforesaid capacities for or on behalf of the Corporation shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein. Such right, however, shall not be exclusive of any other rights to which such person may be entitled apart from the provisions of this Article VIII. No amendment, modification or repeal of this Article VIII shall adversely affect the right of any Director or Indemnified Officer to indemnification hereunder with respect to any activities occurring prior to the time of such amendment, modification or repeal.

**8.06 Insurance.** The Corporation may purchase and maintain insurance on behalf of its directors, officers, employees and agents and those persons who were or are serving at the request of the Corporation in any capacity with another Corporation, partnership, limited liability company, association, joint venture, trust, employee benefit plan or other enterprise against any liability asserted against or incurred by such person in any capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of this Article VIII or otherwise. Any full or partial payment made by an insurance company under any insurance policy covering any director, officer, employee, agent or other person identified above made to or on behalf of a person entitled to indemnification under this Article VIII shall relieve the Corporation of its liability for indemnification provided for in this Article VIII or otherwise to the extent of

such payment, and no insurer shall have a right of subrogation against the Corporation with respect to such payment.

## ARTICLE IX

### General Provisions

9.01 **Waiver of Notice.** Except as otherwise expressly provided herein, whenever any notice is required to be given to any Participant or director under the provisions of the Act or under the provisions of the Restated Articles or these By-Laws, a waiver thereof in writing signed by the person or persons entitled to such notice and delivered to the Secretary of the Corporation, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

9.02 **Fiscal Year.** The fiscal year of the Corporation shall be from January 1<sup>st</sup> of each year through December 31<sup>st</sup> of the calendar year.

9.03 **Definitions.** As used herein, the term “Act” shall refer to the North Carolina Nonprofit Corporation Act, as of the date set forth below and as thereafter amended from time to time. As used herein, the term, “Articles of Incorporation” shall mean the Articles of Incorporation as they exist as the date set forth below and as hereafter amended or restated.

## ARTICLE X

### CONFLICT OF INTERESTS

10.01 **Conflict of Interest.** Members of the Board of Directors shall not knowingly engage in any activities or transactions in material conflict with their duties and obligation to the Corporation. A copy of the current Conflict of Interest Policy will be distributed to the Board of Directors annually.

10.02 **Business Dealings.** Directors shall not conduct private business in a manner which places them at a special advantage because of their relationship with the Corporation or any employee, agent, officer or director thereof.

10.03 **Obligation to Disclose.** Any duality of interest or possible conflict of interest on the part of any Director should be disclosed to the other Members of the Board of Directors and made a matter of record, either through an annual procedure or when the interest first becomes a matter of Board interest or action.

## **ARTICLE XI**

### **DISPOSITION OF ASSETS**

11.01 Should the Corporation opt to dissolve, the remaining assets of the Corporation shall be transferred to an exempt organization under Section 501 (c)(4) of the Internal Revenue Code (or corresponding provision of any further provision of any future United States Internal Revenue Code or Law) ("Code"), to be used in either event to fund one or more other corporations, societies, or organizations engaged in activities substantially similar to those of the Corporation, serving substantially the same community and as shall qualify as exempt organizations under the Code, and also pursuant to the then applicable North Carolina statutes governing not-for-profit corporations.