

AMENDED AND RESTATED BYLAWS
OF
MUSEUM OF CHINESE IN AMERICA

ARTICLE I

Organization

SECTION 1. Name. This corporation is and shall be known as Museum of Chinese in America (hereinafter referred to as the “Museum”)

SECTION 2. Nonprofit Policy. The Museum shall not be operated for profit, and its entire properties, assets, and facilities shall be devoted to the purposes for which it is organized as set forth in its Certificate of Incorporation, as the same may from time to time be amended.

SECTION 3. Office. The office of the Museum shall be located at such place as the Board (as defined below) may from time to time determine.

SECTION 4. Books; Minutes. There shall be kept at the office of the Museum (i) correct books of account of the activities and transactions of the Museum, (ii) minutes of the proceedings of the Board and all Committees (as defined below), (iii) a current list of the Directors and the Officers (as defined below) of the Museum (iv) a copy of these bylaws (the “Bylaws”), and (v) a copy of the Museum Certificate of Incorporation. Electronic copies of books, minutes, organizational documents and other records stored on systems owned or controlled by the Museum shall be deemed to fulfill the requirements of this clause.

SECTION 5. Fiscal Year. The fiscal year of the Museum shall commence on the first day of January and end on the last day of December in each calendar year or on such other date as shall be determined by the Board.

ARTICLE II

Purposes

SECTION 1. Purposes. The purpose of the Museum shall include any lawful non-business educational purposes for which any nonprofit education corporation may be formed, including, but not limited to the following purposes:

- (a) to preserve, present and celebrate the history, heritage, and diverse experiences of Americans of Chinese ancestry, as well as the separate and distinct identity and culture that has developed and matured over time;
- (b) to be the pre-eminent educational facility, historical resource, and national center in the United States in raising the public's understanding of the Chinese diaspora's experience in America, through innovative exhibitions, educational and public programs and open and articulate dialogue;
- (c) to be welcoming and inclusive across the rich and extensive diaspora, without favoring any region or community, but rather bridging different generations, geographies, languages, traditions, and experiences; and
- (d) to collaborate with Asian American and Pacific Islander (AAPI) and other organizations nationwide where mutually beneficial.

ARTICLE III

Board

SECTION 1. Powers and Numbers. The business, property and affairs of the Museum shall be managed by its Board of Directors (the "Board") subject to applicable law and in accordance with the purposes and limitations set forth in the Certificate of Incorporation and herein. The Board shall have full power to adopt rules and regulations governing the conduct of the Museum's affairs and actions of the Board. The Board shall have full authority with respect to the governance and management of the Museum. The number of Directors shall be not be less than five (5) and such number may be fixed, from time to time, by resolution of the Board or amendment of these Bylaws.

SECTION 2. Qualifications and Requirements. Each Director shall be at least 18 years of age and shall contribute a minimum cash amount of \$25,000 each fiscal year (the "Give or Get Policy") to the Museum. From time to time, exceptions for "in kind" or other contributions for specific Directors may be proposed to and approved by the Executive Committee for purposes of determining compliance by a Director with the requirements of this clause.

SECTION 3. Election and Term of Office.

(a) Directors shall be elected by the Board members present at the annual meeting of the Board from a slate of nominees presented at the annual meeting by the Nominating and Governance Committee.

(b) At annual meetings of the Board, Directors shall each be elected to hold office for a term of three (3) years with a renewable three-year term, or such shorter period as the Board shall determine in certain cases. The terms of Directors appointed at quarterly meetings to fill vacancies are deemed to commence at the next annual meeting of the Board. The term of each cohort of Directors shall expire at the end of each applicable annual meeting of the Board. No decrease in the size of the Board shall shorten the term of any incumbent Director.

(c) For the avoidance of doubt, unless otherwise specified, “annual meeting of the Board” shall refer to the final meeting of the Directors in a given calendar year.

SECTION 4. Board Voting and Quorum. Except as might otherwise be required by statute or these Bylaws, a majority of the number of Directors then in office and entitled to vote shall constitute a quorum for the taking of action by the Board. If at any meeting of the Board, there shall be less than a quorum present, the Board members present may adjourn the meeting until a quorum is obtained. Whether or not a quorum exists, the majority of Board members at a meeting may vote to adjourn a meeting to another time and place.

SECTION 5. Board Vacancies. Any vacancy (occurring at any time) on the Board, however caused (including by reason of an increase in the number of Directors), may be filled by election by the affirmative vote of a majority of the remaining Directors then in office, regardless of their number, present at the subsequent quarterly meeting by the Nominating and Governance Committee. A Director elected by the Board pursuant to this Section 5 shall hold office until the next succeeding annual meeting of the Directors and until a successor is elected or appointed and qualified.

SECTION 6. Resignation or Removal of Directors.

(a) A Director may resign from office by written notice to any Officer of the Board. The resignation shall be effective upon receipt thereof by the Board or at a subsequent time as shall be specified in the notice of resignation. No resignations shall discharge any accrued obligation or duty of a Director.

(b) By resolution adopted by a majority of all the Directors then in office, the Board may remove a Director from office for cause or suspend a Director pending a final determination that cause exists for removal at any duly called meeting of the Board. Failure to regularly attend or participate in at least half of the meetings of the Board in a given year or failure by any Director to fully satisfy the Give or Get Policy shall be grounds for removal.

SECTION 7. Meetings of the Board and Committees.

(a) The annual meeting of the Board shall be held on such date and at such time and place as may be fixed by the Board and named in the notice. Regular

meetings of the Board shall be held at such times and places as the Board may, from time to time, determine. Special meetings of the Board may be called by the (Co-) Chair(s) of the Board, the Vice Chairs, or by the Secretary upon the request in writing of any two (2) members of the Board. Special meetings of a committee of the Board or of the Museum (each, a “Committee” and collectively, “Committees”) may be called by the chair or any two members of such Committee.

(b) Any one or more members of the Board or any Committee thereof may participate in a meeting of such Board or Committee by means of a conference telephone, videoconference, or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

SECTION 8. Notice of Meetings of the Board and Committees. Written notice of the time and place of each regular and annual meeting of the Board or Committee, and to the extent practicable, a written agenda setting forth all matters proposed to be taken, shall be given to each Director by personal electronic mail no less than one (1) nor more than thirty (30) days before such meeting. Notice of the special meetings of the Board or any Committee shall be given to each Director by personal electronic mail at least two (2) days before such meeting.

SECTION 9. Action Without a Meeting. Any action required or permitted to be taken by the Board or any Committee thereof at a duly held meeting may be taken without a meeting if all members of the Board or the Committee consent in writing (which may be given by electronic mail) to the adoption of a resolution authorizing the action. Such resolution and the written consents thereto by the members of the Board or Committee shall be filed with the minutes of the proceedings of the Board or the Committee. Unanimous consent can be given through the use of electronic communication.

SECTION 10. Waiver of Notice of Board or Committee Meetings. Notice of any meeting that is not a special meeting of the Board or any Committee thereof need not be given to any Director who submits a signed waiver of notice whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to them.

SECTION 11. Organization. At each meeting of the Board, a Chair or, in the absence of a Chair, a Vice Chair, shall preside, or in the absence of either of such officers, the longest-tenured Director present, shall preside. In the event the Secretary shall be absent from any meeting of the Board, the Directors shall select a secretary to record the minutes. At each meeting of a Committee, the chair of the Committee or, in his or her absence, a member chosen by a majority of the Committee members present, shall preside, and where a resolution and written consent of a Committee to an action has occurred, a Committee member shall also be selected to record the minutes.

SECTION 12. Director Attendance. All Directors are expected to regularly attend all meetings of the Board in person or participate in such meetings in the manner

prescribed in Section 7 of this Article III. Failure by any Director to attend at least half of the meetings of the Board in person or in the manner prescribed in Section 7 of this Article III shall be grounds for removal. From time to time, exceptions to this requirement may be proposed to and approved by the Executive Committee.

SECTION 13. Trustees.

(a) By recommendation and in partnership with the Museum President and the Nominating and Governance Committee, the Board from time to time may elect retired or former Directors as well as other individuals to be trustees (each a “Trustee” and collectively, “Trustees”). Trustees shall be elected for such terms as the Board in each case may determine and may be re-elected to additional terms; provided that the continuation of any term is subject to periodic review by the Board and may be terminated at any time.

(b) Trustees may attend meetings of the Board but shall not be entitled to vote or be counted in determining a quorum. Trustees shall have no legal responsibility for the conduct of the business and affairs of the Museum but may be called upon by the Board or the Chair of the Board for consultation and advice.

(c) Each Trustee shall be at least 18 years of age and shall contribute a minimum cash amount of \$10,000 each fiscal year to the Museum.

ARTICLE IV

Officers

SECTION 1. Designations. The officers of the Museum (hereinafter referred to as “Officers”) shall be one (1) Chair or two (2) Co-Chairs (each of whom shall be considered a Chair for purposes of these Bylaws), one or more Vice Chairs (each of whom shall be considered a Vice Chair for purposes of these Bylaws), a Secretary, a Treasurer and such other officers as the Board may from time to time appoint or elect. One person may hold more than one office in the Museum, except that one person may not (a) hold both the offices of Chair or Co-Chair and Secretary or (b) hold both the offices of Museum President and Secretary and no Officer shall execute, acknowledge, or verify any instrument in more than one capacity if the instrument is required by law to be executed, acknowledged, or verified by two or more Officers.

SECTION 2. Election and Term. Officers shall serve as a cohort. Each cohort of Officers shall be from among the Directors at the annual meeting of the Board on odd-numbered years for a term of two years. Each Officer shall continue in office until his or her successor shall have been elected and qualified or, if sooner, until his or her death, resignation or removal. Any officer elected or appointed by the Board may be removed at any time, with or without cause, by an action of the Board. Any vacancy in the above offices, however caused, shall be filled by the Board as soon as practicable based on a list of nominees provided by the Nominating and Governance Committee.

SECTION 3. Chair. The Chair shall be the presiding Officer of the Board with the power and duty to exercise general supervision over the affairs and operations of the Museum. The Chair shall preside at all meetings of the Board and of the Executive Committee. The Chair shall be an ex-officio member of all Standing Committees and any other Special Committees, except the Nominating and Governance Committee. The Chair shall have such other powers and duties as may be designated by the Board.

SECTION 4. Vice Chair. In the absence or incapacity of the Chair or a vacancy in the office of the Chair, the Vice Chair shall preside at all meetings of the Board. The Vice Chair shall be a member of the Executive Committee and have such powers and shall perform such other duties as may be assigned by the Board or the Chair.

SECTION 5. Secretary. The Secretary shall be accountable for the keeping of minutes of all meetings of the Board. He or she shall see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law. The Secretary shall be responsible for the custody of the records and of the seal or seals of the Museum, in the event the Board has elected to create and utilize a seal of the Museum. The Secretary shall perform all duties incident to the office of the Secretary, subject, however, to the control of the Board, and such other powers and duties as may be assigned to her/him by the Board or the Chair. Where appropriate, the Secretary may delegate specific responsibilities to others present at meetings. In the absence of the Secretary, the acting chair of any meeting shall appoint an acting secretary for the purpose of keeping the minutes of that particular meeting, to the extent required.

SECTION 6. Treasurer. The Treasurer shall have supervision over the financial records of the Museum and shall keep full and accurate accounts of all moneys received and paid by him or her on account of the Museum. The Treasurer shall provide the Board at each of its regular meetings with a statement of the financial condition of the Museum. He or she shall have such other power and duties as may be designated by the Board.

SECTION 7. Removal. At any duly called meeting of the Board, any Officer of the Museum may, by a vote of a majority of the members of the Board then in office, be removed from office and another may be elected by the Board in the place of the Officer so removed, to serve until the next annual meeting of the Board.

SECTION 8. Resignation. An Officer may resign by written notice to the Museum. The resignation shall be effective upon receipt thereof by the Museum or at a subsequent time as shall be specified in the notice of resignation.

SECTION 9. Acting Officers. Upon request, and subject to the approval of the Executive Committee, any Standing Committee may nominate a Director to assume delegated responsibilities as an acting Officer due to force majeure resulting in a duly elected Officer being temporarily unable to assume his or her duties. Acting Officers will not require Board vote, and their roles shall cease upon the return of the duly elected Officer.

ARTICLE V

Museum President

SECTION 1. Museum President. The Board may appoint and employ a chief executive officer of the Museum, designated as the Museum President. The Museum President shall constitute an Officer of the Museum and serve at the pleasure of the Board. The Board may delegate to the Museum President the responsibility and authority for carrying out on a day to day basis the policies and purposes that have been adopted and approved by the Board. The Museum President shall appoint, supervise and, when necessary, discharge individuals who occupy staff positions. The Museum President shall have such powers and duties as may be designated by the Board.

ARTICLE VI

Committees of the Board

SECTION 1. Committees.

(a) Standing Committees. The Board shall have the following Standing Committees, which shall consist of three or more Directors as may be required: (i) Executive Committee; (ii) Finance, Audit, and Investments Committee; (iii) Nominating and Governance Committee; (iv) Strategic Planning Committee; (v) Compensation Committee; and (vi) Development Committee. Each member of a Standing Committee shall be entitled to one vote.

(b) Special Committees. The Board may, by a majority vote of the entire Board, establish and appoint from time to time such other Special Committees as the Board may designate, consisting of three or more Directors as may be required, with such powers and duties, not already delegated to the Standing Committees, as permitted by law and as the Board may prescribe. Such authority shall not exceed the authority conferred on the Executive Committee by Section 2 of this Article VI. Members of Special Committees shall be appointed by the Chair, with the consent of the Board.

(c) Committee Powers. Unless otherwise specified in these Bylaws, each Committee shall have the authority to pass resolutions, which shall not become effective until adopted by the Board. Actions taken at a meeting of any Committee shall be reported to the Board at the next meeting of the Board following the Committee meeting, whereupon such actions shall be voted upon for full adoption by the Board. Written minutes of each Committee's meeting shall be furnished to the Secretary and made available to the Board as soon as practicable. No such Committee shall have authority as to the following matters:

- a. the filling of vacancies in the Board or in any Committee;
- b. the fixing of compensation of the Directors serving on the Board or on any Committee;

- c. the amendment or repeal of the Bylaws or the adoption of new Bylaws; or
- d. the amendment or repeal of any resolution of the Board which by its terms shall not be so amendable or repealable.

(d) Appointment and Term. Each Committee shall serve at the pleasure of the Board. The Board may fill vacancies in, and nominate new members to, any Committee, which will not require a vote, except in the case of the Executive Committee. Each Committee member shall continue in office until such member's successor shall have been elected and qualified or, if sooner, until such member's resignation or removal from the Committee or such member's ceasing for any reason to be a Director. The Board may designate one or more Directors as alternate members of any Committee, who may replace any absent member or members at any meeting of such Committee.

SECTION 2. Executive Committee.

(a) The Executive Committee shall be composed of the Chair, the Vice-Chair, the Secretary, the Treasurer and such Directors as the Board may from time to time designate. The Executive Committee shall function on behalf of the entire Board between Board meetings and, during such times, may authorize any action of the Museum, or its officers, employees or agents as might be authorized by such Board; provided, however, any such authorization shall require at least two-thirds (2/3) vote of the Executive Committee and shall be promptly communicated in writing to the entire Board.

(b) The Chair shall call meetings of the Executive Committee, which shall in any case meet at least three times a year in addition to regular and special meetings of the Board.

SECTION 3. Development Committee. The Development Committee shall support the Museum staff in all fundraising campaigns, visioning, strategizing, provide networking and monitor progress of annual fundraising goals and revenues, to support the Museum's programs and operations, other than any capital campaigns. Fundraising activities include (but are not limited to), foundation and corporate grants and sponsorships, major donor gifts, memberships, cultivation events and other giving and support producing activities.

SECTION 4. Nominating and Governance Committee.

(a) The Nominating and Governance Committee shall have the authority and responsibility to:

- a. review and nominate potential new Board members, Officers, and Trustees;
- b. undertake annual assessments of the Board's performance in the following areas: attendance, giving, and Committee activity
- c. propose, as appropriate, changes in Board structure and operations; and
- d. take the lead in succession planning, specifically with respect to recruiting and preparing future Board members.

(b) Independent nominations for any election of Directors and Trustees may also be made by written petition signed by at least two members of the Board and submitted to the Nominating and Governance Committee for review at least ten (10) days prior to the election. Such nominations may be included in the slate of candidates to be submitted to the Board as the Nominating and Governance Committee may from time to time determine.

(c) Ten (10) days before the election of an Officer or Director, as the case may be, the Nominating and Governance Committee must send out a list of all nominees, whether nominated by the Committee or independently.

SECTION 5. Finance, Audit, and Investments Committee. The Finance, Audit, and Investments Committee shall assist the Board in fulfilling its oversight responsibilities with respect to the:

- (a) financial plans and policies of the Museum and the implementation of such plans and policies, including cash management, capital structure, capital and debt issuances, financial strategies, strategic investments and banking activities and relationships;
- (b) preparation of the annual budget in consultation with the other Standing Committee chairs;
- (c) preparation of any multi-year or long-term financial plans;
- (d) review and monitor, for consistency with the Museum's approved budget, collection and expenditures of funds;
- (e) integrity of Museum's financial statements and disclosures;
- (f) Museum's compliance with ethical, legal, regulatory, and tax requirements; and
- (g) qualifications, independence and selection of the Museum's independent auditors.

The committee shall also supervise the annual audit and the Museum's legal affairs.

SECTION 6. Strategic Planning Committee. The Strategic Planning Committee works with the Museum President to develop and recommend the overall strategic direction for the Museum, monitors progress, reviews results as a basis for setting new strategy and recommends actions to the Executive Committee consistent with the strategic plan of the Museum. The Strategic Planning Committee shall include have the power and authority to:

- (a) establish a limited number of organization-wide strategic priorities for the Museum to focus on;
- (b) set measurable goals for each priority in order to track progress;
- (c) assist the Board in formulating, advancing and communicating a vision for the future of Museum;
- (d) oversee and monitor implementation plans to assure that they are carried out;
- (e) work with the Finance, Audit, and Investments Committee, as needed, to ensure appropriate coordination between strategic priorities and financial planning and budgeting;
- (f) periodically assess progress on goals and make adjustments as necessary;
- (g) conduct periodic review of the strategic progress as a basis for setting new strategy; and
- (h) recommend action by the Executive Committee, as necessary, to direct other Committees regarding activities consistent with the focus and direction of the strategic plan.

SECTION 7. Compensation Committee. The Compensation Committee shall recommend an overall compensation philosophy and strategy for the Museum consistent with its non-profit status, employee base and overall mission. Specific responsibilities shall include to:

- (a) strategize and recommend, at least annually, organizational goals and objectives relevant to the compensation of the Museum President, and at the end of the year, evaluate the performance of the Museum President in light of these goals and objectives;
- (b) recommend an appropriate base and performance compensation range for the Museum President and work with the Museum President to

establish appropriate performance targets and incentive systems for the Museum staff;

- (c) based on the Museum President's staff evaluations, recommend to the Board appropriate compensation levels for staff on an annual basis;
- (d) evaluate, consider and recommend to the Board appropriate elements of individual compensation arrangements, which may include, base salary, performance-based compensation, and benefits; and
- (e) review and advise the Board on any proposed employment agreement with, and any proposed severance or retention plans or agreements applicable to, the Museum President and senior staff.

SECTION 8. Action by Committees. Action by a Standing Committee (except for the Executive Committee) shall require the affirmative vote of at least a majority of the members of such Standing Committee who shall be present in person at a meeting duly called and held in accordance with these Bylaws. Actions by other Committees shall be by simple majority vote of the members of the Committee unless specified otherwise in the resolution establishing the Committee.

ARTICLE VII

Museum Membership

SECTION 1. Purpose and Authorization. In order to provide a means of attracting interest in and support for the activities of the Museum, the Board may establish or amend, as the case may be, from time to time, one or more classes of Museum membership as it deems fit, on such terms and conditions as the Board by resolution shall determine. The Board may also establish Museum membership dues, which shall be paid annually, for the various categories of Museum membership.

ARTICLE VIII

Advisors

SECTION 1. Appointments of Advisors. The Board, by majority vote, may appoint from time to time any number of persons to be advisors of the Museum to act either singly or as a part of Committee or Committees. Each such advisor shall hold office at the pleasure of the Board and shall have only such authority or obligations as the Board may from time to time determine.

SECTION 2. Compensation. No advisor of the Museum shall receive, directly or indirectly, any compensation in connection with their duties, except that the Board may authorize reimbursement of expenditures reasonably incurred on behalf of activities for the benefit of the Museum.

ARTICLE IX

Contracts, Check, Bank Accounts and Investments

SECTION 1. Checks, Notes and Contracts. The Board is authorized to select such banks or depositories as it shall deem proper for the funds of the Museum. From time to time, and upon review by and recommendation of the Finance, Audit, and Investments Committee, the Board shall determine staff designees authorized on the Museum's behalf to sign checks, drafts or orders for the payment of money, acceptance, notes or other evidences and deliver other documents and instruments.

SECTION 2. Loans. No loans or other indebtedness shall be contracted on behalf of the Museum unless specifically authorized by resolution of the Board.

SECTION 3. Investments. The funds of the Museum may be retained in whole or in part in cash or be invested and reinvested from time to time to the credit of the Museum in such property, real personal or otherwise, or stocks, bonds or other securities, as the Board may deem desirable and in accordance with the New York Prudent Management of Institutional Funds Act and other applicable law.

ARTICLE X

Indemnification and Insurance

SECTION 1. Proceedings by or in the Right of Third Parties. The Museum shall indemnify any Indemnitee (as used herein, "Indemnitee" shall mean any person who is or was a Director or Officer of the Museum) made, or threatened to be made, a party in any action or proceeding (other than one by or in the right of the Museum to procure a judgment in its favor), whether civil, criminal, administrative, investigative or otherwise, including any action by or in the right of the Museum, by reason of the fact that he or she (or his or her testator or intestate) is or was a Director or Officer of the Museum or is serving or has served, in any capacity at the request of the Museum, as a director or trustee or officer of any other corporation, or any partnership, joint venture, trust, employee benefit plan or other enterprise (collectively, the "Third Party Entities"). The indemnification shall be against all judgments, fines, penalties, amounts paid in settlement (provided the Museum shall have consented to such settlement) and reasonable expenses, including attorneys' fees and costs of investigation, incurred by an Indemnitee with respect to any such threatened or actual action or proceeding, and any appeal thereof, ***provided, that:***

- (a) a judgment or other final adjudication adverse to such Indemnitee does not establish that the acts of the Indemnitee that are the subject of such action or proceeding were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated;

- (b) the Indemnitee acted in good faith for a purpose which he or she reasonably believed to be in, or in case of service of any of the Third Party Entities, not opposed to, the best interests of the Museum; and
- (c) in criminal actions or proceedings, the Indemnitee had no reasonable cause to believe that his or her conduct was unlawful.

SECTION 2. Proceedings by or in the Right of the Museum. The Museum shall indemnify any Indemnitee made, or threatened to be made, a party in any action by or in the right of the Museum to procure a judgment in its favor by reason of the fact that he or she (or his or her testator or intestate) is or was a Trustee or Officer of the Museum or is serving or has served, in any capacity at the request of the Museum, as a director or trustee or officer of any Third Party Entities. The indemnification shall be against amounts paid in settlement and reasonable expenses, including attorneys' fees and costs of investigation, incurred by an Indemnitee with respect to any such threatened or actual action or proceeding, and any appeal thereof, **provided, that:**

- (a) a judgment or other final adjudication adverse to such Indemnitee does not establish that the acts of the Indemnitee that are the subject of such action or proceeding were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated;
- (b) the Indemnitee acted in good faith for a purpose which he or she reasonably believed to be in, or in case of service of any of the Third Party Entities, not opposed to, the best interests of the Museum; and
- (c) in criminal actions or proceedings, the Indemnitee had no reasonable cause to believe that his or her conduct was unlawful.

Notwithstanding the foregoing, no indemnification shall be made to the Indemnitee under this section in respect of (i) any threatened action, or pending action which is settled or otherwise disposed of or (ii) any claim, issue or matter as to which such person shall have been adjudged to be liable to the Museum, unless and only to the extent that the court in which the action was brought, or, if no action was brought, any court of competent jurisdiction, determines upon application that, in view of all the circumstances of the case, the Indemnitee is fairly and reasonably entitled to indemnity for such portion of the settlement amount and expenses as the court deems proper.

SECTION 3. Determination of Proper Indemnification. Any indemnification pursuant to Section 1 and, unless ordered by a court, Section 2 of this Article X may be made only upon a prior determination that the Indemnitee met the applicable standards of conduct set forth in those sections, which determination in each specific case shall be made:

- (a) by the Board acting by a quorum consisting of Directors who are not parties to such action or proceeding upon a finding that the Indemnitee

has met the standard of conduct set forth in Section 1 or Section 2 of this Article X, as the case may be; or

- (b) if the quorum is not obtainable or, even if obtainable, the quorum of disinterested Directors so directs, by the Board upon the opinion in writing of independent legal counsel that indemnification is proper because the applicable standard of conduct set forth in Section 1 or Section 2, as the case may be, has been met by such Indemnitee.

SECTION 4. Advancement of Expenses. Expenses incurred by an Indemnitee in connection with a proceeding referred to in Section 1 or Section 2 of this Article X shall be paid by the Museum in advance of the final disposition of the proceeding upon the receipt of an undertaking by or on behalf of such Indemnitee to repay the such amount, *provided, however*, that all expenses shall be repaid where it appears that such advancement of expenses is prohibited under applicable law or the governing documents of the Museum.

SECTION 5. Indemnification Report. If any expenses or other amounts are paid by way of indemnification, otherwise than by court, the Museum shall prepare a statement specifying the persons paid, the amounts paid, and the nature and status at the time of such payment of the litigation or threatened litigation. Such statement shall be included in the records of the Museum, open to public inspection.

SECTION 6. Mandatory Indemnification. The Museum shall indemnify an Indemnitee against expenses to the extent that he or she has been successful, on the merits or otherwise, in any proceeding referred to Sections 1 or 2 of this Article X or in the defense of any claim, issue or matter therein.

SECTION 7. Binding Effect. Any person entitled to indemnification under these Bylaws has a legally enforceable right to indemnification which cannot be abridged by amendment of these Bylaws or the Certificate of Incorporation with respect to any event, action or omission occurring prior to the date of such amendment.

SECTION 8. Insurance.

(a) The Museum is not required to purchase Directors' and Officers' liability insurance, but the Museum may purchase such insurance if authorized and approved by the Board. To the extent permitted by law, such insurance may insure the Museum for any obligation it incurs as a result of this Article X or operation of law and it may insure directly the Directors and Officers of the Museum for liabilities against which they are not entitled to indemnification under this Article X as well as for liabilities against which they are not entitled to be indemnified by the Museum

(b) No insurance under the foregoing section (a) may provide for any payment, other than cost of defense, to or on behalf of any Director or Officer (i) if a judgment or other final adjudication adverse to the insured Director or Officer establishes that his or her acts of active and deliberate dishonesty were material to the cause of action so adjudicated, or that he or she personally gained in fact a financial

profit or other advantage to which he or she was not entitled to, or (ii) in relation to any risk the insurance of which is prohibited under the laws of New York state.

SECTION 9. Nonexclusive Rights. The indemnification and advancement of expenses provided by this Article X shall not be deemed exclusive of any other rights to which Indemnitees may be entitled under any law, agreement, vote of the Board or otherwise.

ARTICLE XI

Conflict of Interest Policy

SECTION 1. Policy Overview. Museums are publicly and privately supported organizations, holding their collections and disseminating information for the benefit of the community. The Museum's Board members, Officers, Trustees, employees, and agents (collectively for the purposes of this Article, "Affiliates") are in a position of great trust and responsibility and must be loyal and committed to the mission of the Museum. Decisions must be made in the best interest of the Museum, without regard to personal interests.

SECTION 2. Conflicts of Interests Generally. Generally, a conflict of interest may occur if an interest or activity influences or appears to influence an individual's objective judgment or impairs the individual's ability to perform his or her responsibilities in the best interests of the Museum. Thus, a conflict of interest arises whenever an Affiliate has competing, financial, personal, or professional interests that could be reasonably viewed as affecting their objectivity or independence in fulfilling their duties to the Museum. The interest does not have to be direct, tangible or financial. It may be indirect or intangible, such as a desire to help a friend or relative by sending them Museum business. Competing interests are problematic because they have the ability to cloud one's independent professional judgment – or appear to do so – even if one is attempting to act objectively. This Conflicts of Interest Policy is designed to assist Affiliates in identifying conflicts of interest and in handling them appropriately.

Neither the Museum nor any Affiliate shall enter into any transaction or arrangement that involves an actual, potential, or apparent conflict of interest except in compliance with this Conflicts of Interest Policy.

While it is not possible to anticipate all possible conflict situations, conflicts of interest typically arise whenever an Affiliate, or any affiliated party (defined herein as a member of an Affiliate's immediate family, or any entity in which the Affiliate is a director, officer, or has a beneficial interest of more than five percent (directly or indirectly):

- (a) enters into a compensation arrangement or acquires other interest in a transaction with the Museum;

- (b) enters into a compensation arrangement or acquires other interest in or affiliation (subject to de minimis exceptions) with any entity or individual that: (i) sells goods or services to, or purchases goods or services from, the Museum; or (ii) competes with the Museum where the Museum has negotiated, is negotiating, or is contemplating negotiating a transaction or arrangement;
- (c) uses his or her position, or confidential information or the assets of the Museum to his or her (or an affiliated party's) personal advantage or for an improper or illegal purpose;
- (d) solicits or accepts any gift, entertainment, or other favor where such gift might create the appearance of influence on the Affiliate (other than gifts of nominal value, which are clearly tokens of respect and friendship unrelated to any particular transaction);
- (e) acquires any property or other rights in which the Museum has, or the Affiliate knows or has reason to believe at the time of acquisition that the Museum is likely to have an interest;
- (f) usurps an opportunity related to the activities of the Museum that is available to the Museum or to the Affiliate, unless the Board has made an informed decision that the Museum will not pursue that opportunity;
- (g) becomes indebted to the Museum, other than for amounts due for ordinary travel and expense advances; or
- (h) is involved in any other circumstances that may, in fact or in appearance, make it difficult for the Affiliate to exercise independence, objective judgment or otherwise perform effectively.

SECTION 3. Disclosure of an Actual, Potential or Apparent Conflict of Interest. The first step in handling conflicts – real, potential or perceived – is disclosure of the conflict by the party with the conflict. The burden is on that party to come forward and identify the conflict, in writing, to the appropriate individual. Unless otherwise noted, Affiliates should disclose conflicts of interest to the President or Chair. Disclosure of the activity or relationship at issue allows a determination of whether an actual, potential or perceived conflict of interest may exist, and if so, the Museum's position with respect thereto. The Disclosure must be made as soon as an actual, potential or perceived conflict of interest becomes apparent.

Conflict identification and analysis can be difficult and, therefore, Affiliates are at all times expected to err on the side of caution and bring to the attention of the President or Chair all material facts of any matters that may involve conflicts of interest or be perceived by others to raise questions about potential conflicts even if the person does not believe that an actual conflict exists. Upon receiving written notice of a conflict or potential conflict, the recipient should document in writing any steps taken by the Museum to address the conflict situation.

In addition, each Affiliate who currently serves as a Director and each individual who is considered for a role as Director, shall complete a Conflict of Interest Questionnaire prior to their initial election to Director and each year of their affiliation with the Museum, disclosing any actual, potential or apparent conflicts, and affirming that they have read, understood, adhered and will continue to adhere to this Conflicts of Interest Policy. They shall also submit a new Questionnaire disclosing any relevant change in circumstances. The Questionnaires shall be submitted to the Secretary, who will distribute such Questionnaires to the Nominating and Governance Committee for review.

SECTION 4. Evaluation of an Actual, Potential or Apparent Conflict of Interest. The Nominating & Governance Committee will evaluate conflict disclosures and make other necessary inquiries to determine the extent and nature of any actual or potential conflict of interest and, if appropriate, investigate alternatives to the proposed transaction or arrangement. After disclosures of the potentially conflicting interest and all material facts, and after answering any questions, the interested person shall recuse himself or herself from deliberations and voting relating to the matter and shall refrain from attempting to influence other decision-makers relating to the matter. However, as a member of the Board or committee, an interested Director may be counted in determining the establishment of the quorum at a meeting relating to the matter.

SECTION 5. Resolution of an Actual, Potential or Apparent Conflict of Interest. The Museum may enter into a transaction or other arrangement in which there is an actual or potential conflict of interest (a “Related Party Transaction”) only if at a duly held meeting of the Board, a majority of those Directors (if a quorum is present at such time) who have no interest in the transaction or arrangement approve the transaction or arrangement after determining, in good faith and after reasonable inquiry, that:

- (a) entering into the transaction or arrangement is in the best interests of the Museum, while considering the Museum's mission and resources, and the possibility of creating an appearance of impropriety that might impair the confidence in, or the reputation of, the Museum (even if there is no actual conflict or wrongdoing);
- (b) the transaction or arrangement in its entirety, and each of its terms, are fair and reasonable to the Museum;
- (c) after consideration of available alternatives, the Museum could not have obtained a more advantageous arrangement with reasonable effort under the circumstances;
- (d) the transaction or arrangement furthers the Museum's mission and charitable purposes; and
- (e) the transaction or arrangement is not prohibited under applicable law and does not result in private inurement, an excess benefit transaction or

impermissible private benefit under laws applicable to tax exempt organizations.

Any Director, Officer or other key person who has an interest in a Related Party Transaction shall disclose in good faith to the Board the material facts concerning such interest in accordance with Section 3 above.

SECTION 6. Records of Conflict Disclosures and Proceedings. The minutes of the Board or any committee meeting during which a potential or actual conflict of interest (including any Related Party Transaction) is disclosed or discussed shall reflect the name of the interested Affiliate, the nature of the conflict, and details of the deliberations of the disinterested Directors (such as documents reviewed, alternatives considered, comparative costs or bids, market value information and other factors considered in deliberations) and the resolution of the conflict including any ongoing procedures to manage any conflict that was approved. The interested Affiliate shall only be informed of the final decision and not of particular Directors' positions. In addition, certain related party transactions are required to be disclosed in the notes to the Museum's audited financial statements and its annual federal tax filing on Form 990.

SECTION 7. Compliance. If the Board, the Nominating and Governance Committee, or the President has reasonable cause to believe that an Affiliate has failed to comply with this Conflicts of Interest Policy, they may make such further investigation as may be warranted in the circumstances and if they determine that an Affiliate has in fact failed to comply with this Conflicts of Interest Policy, they shall take appropriate action which may include removal from office or termination.

SECTION 8. Consultation for situations not covered here. It is impossible to describe in this Code every potential conflict that may arise. Affiliates who have questions or concerns about any actual, potential or perceived conflict of interest issue, or are confronted with a situation not covered here, should consult with the President or Chair.

ARTICLE XII

Amendments and Other Provisions

SECTION 1. Amendments. These Bylaws may be adopted, amended or repealed in whole or in part by the affirmative vote of a majority in number of the entire Board.

These Bylaws were amended by Board vote on October 2, 2019 [and on July 14, 2021].