

ARTICLE I THE CORPORATION

- 1. Name.** The Corporation will be known as Girl Scouts of Eastern Pennsylvania, Inc. (GSEP) and referred to as "Council." The Council is legally bound by the governing authority of the Pennsylvania Nonprofit Corporation Law of 1988, as amended.

ARTICLE II DELEGATE COUNCIL

- 1. Delegate Council.** The members of the Delegate Council constitute the voting members of the Council within the meaning of the Pennsylvania Nonprofit Corporation Law of 1988, as amended. The Members of the Delegate Council must be members of Girl Scouts of the USA (GSUSA), age 14 or older at the time of election and currently registered through the Council. Members are permitted to hold only one Delegate Council position at a time with the exception of Members of the Board of Directors who are also on the Board Development Committee. Members have one vote per person.
- 2. Elected Members of the Delegate Council.** The Council must have a Delegate Council consisting of the following:
 - a. Service Unit Delegates;**
 - b. Board of Directors;**
 - c. Board Development Committee;**
 - d. Girl Advisors to the Board of Directors;**
 - e. Girl Delegates;** and
 - f. Additional Delegates,** as determined annually by the Board of Directors.
- 3. Composition.**
 - a.** The ratio of Service Unit Delegates plus Additional Delegates to Members of the Board of Directors plus Non-Board Members of the Board Development Committee must be 5:1.
 - b.** The ratio of Girl Delegates to Members of the Board of Directors plus Non-Board Members of the Board Development Committee must be 1:1.
- 4. Election, Quorum, Terms, and Vacancies of Service Unit Delegates.** Service Units are geographically defined operational units determined annually by Council to support delivery of services. Each Service Unit is to elect one Service Unit Delegate and one Service Unit Alternate Delegate from its Members, age 14 or older at the time of election, to serve on the Delegate Council.
 - a. Election and Quorum.** Service Unit Delegates and Service Unit Alternate Delegates must be elected annually at a Service Unit meeting with at least one representative from a minimum of 25% of troops or groups that make up the Service Unit. All participants must be present in person or linked electronically such that all members are able to actively participate in the proceedings.
 - b. Terms.** Service Unit Delegates and Service Unit Alternate Delegates must be elected for a term of one Governance Year. The Governance Year is defined as from the close of one Annual Meeting to the close of the next Annual Meeting. The Delegates are permitted to serve no more than six consecutive terms in the same position. After a lapse of one year a person who reached term limits is eligible for election to the same position. An individual who has served more than half a term in an elected position will be considered to have served the full

term for the purpose of determining eligibility to serve additional terms in that position.

c. Vacancies. A Service Unit Alternate Delegate may vote at the Annual Meeting or Special Meeting in place of a Service Unit Delegate from the same Service Unit who cannot attend. A Service Unit Alternate Delegate may fill the vacancy of a Service Unit Delegate who cannot complete their term. In the case of a vacancy, a special Service Unit election may be held to fill the vacant Service Unit Delegate or Service Unit Alternate Delegate position, provided the election is held, and results are reported, more than 30 days before a meeting of the Delegate Council. The term of office runs until the end of the Governance Year. The Governance Year is defined as from the close of one Annual Meeting to the close of the next Annual Meeting.

5. Girl Delegate Terms. Girl Delegates, age 14 or older at the time of their election, must be elected for a term of one Governance Year. The Governance Year is defined as from the close of one Annual Meeting to the close of the next Annual Meeting. They are permitted to serve no more than three consecutive terms in the same position. An individual who has served more than half a term in an elected position will be considered to have served the full term for the purpose of determining eligibility to serve additional terms in that position.

6. Duties and Responsibilities. The duties of the Delegate Council are to:

- a. attend the Delegate Council meetings, Annual Meeting, and any Special Meetings of the Delegate Council;
- b. represent the entire Council;
- c. elect Members of the Board of Directors, Officers of the Board of Directors, Board Development Committee Chair, Board Development Committee Members-at Large, Girl Advisors to the Board of Directors, Girl Delegates, and the Delegates and Alternates to the National Council;
- d. vote on Amendments to the Bylaws and to the Articles of Incorporation;
- e. take all other actions requiring a vote of the Delegate Council and conduct other business which may come before the Delegate Council; and
- f. influence the general direction of Girl Scouting within the jurisdiction of the Council by responding to reports and information from the Board of Directors.

7. Annual Meeting. The Annual Meeting is a meeting of the Delegate Council where a quorum is present to conduct business. The Annual Meeting of the Delegate Council must be held at such time and place as determined by the Board of Directors between April 1 and June 1.

8. Notice of the Annual Meeting. Notice must be given no later than 30 days before the meeting. Notice is required to be given to each person in writing personally, by mail, or by electronic communication to the address supplied to the Council by that person for that purpose. Such notice must specify the purpose, place, date and time of the meeting and any other information required by the Pennsylvania Nonprofit Corporation Law of 1988, as amended, including the slate of nominees for all positions.

9. Special Meetings. Special meetings of the Delegate Council may be called at the discretion of the Chair of the Board of Directors. Special meetings of the Delegate Council must be called by the Chair of the Board of Directors within 30 days upon

91 receipt of written request of 10% of the members of the Delegate Council. Written
92 request may be given in writing personally, by mail, or by electronic communication.

93 **a. Purpose.** The request for a Special Meeting of the Delegate Council must
94 specify the reason for the meeting, and only that business may be conducted at
95 the meeting.

96 **b. Notice.** Notice must be given no later than 14 days before the meeting. Notice
97 is required to be given to each person in writing personally, by mail, or by
98 electronic communication to the address supplied to the Council by that person
99 for that purpose. Such notice must specify the purpose, place, date and time of
100 the meeting and any other information required by the Pennsylvania Nonprofit
101 Corporation Law of 1988, as amended.

102 **10. Quorum.** 40% of the Delegate Council must be present at any Annual Meeting or
103 Special Meeting of the Delegate Council to constitute a quorum to transact business.
104 However, at the discretion of the Chair of the Board, persons may be linked
105 electronically such that all members are able to actively participate in the
106 proceedings of the Annual Meeting or Special Meetings.

107 **11. Voting Procedures.** Each Delegate Council member present is permitted one vote.
108 Election must be by ballot in contested elections, and may be by voice or other
109 methods in uncontested elections. In contested elections, a plurality of votes cast
110 determines election. All other matters are determined by a majority vote of the
111 Delegates present and voting, unless otherwise provided for in these Bylaws or by
112 parliamentary authority (see Article VIII).

113 **Article III BOARD OF DIRECTORS**

114 **1. Membership.** The Board of Directors must consist of at least 20 members and no
115 more than 25 members and must include each of the Officers and the Board
116 Development Committee Chair. The remaining members of the Board of Directors
117 are called Directors-at-Large. All Members of the Board of Directors must be age 18
118 or older according to the Pennsylvania Nonprofit Corporation Law of 1988, as
119 amended.

120 **2. Election, Terms, and Vacancies.**

121 **a. Election.** The Board of Directors must be elected by the Delegate Council at the
122 Annual Meeting.

123 **b. Terms.** They must be elected for a term of two Governance Years. The
124 Governance Year is defined as from the close of one Annual Meeting to the close
125 of the next Annual Meeting. They are permitted to serve no more than three
126 consecutive terms in the same position. After a lapse of one year a person who
127 reached term limits is eligible for election to the same position. Regardless of the
128 number of consecutive terms any person has served as a Director-at-Large, such
129 person is eligible to be elected an Officer of the Board of Directors. An individual
130 who has served more than half a term in an elected position will be considered to
131 have served the full term for the purpose of determining eligibility to serve
132 additional terms in that position.

133 **c. Vacancy.** Should a vacancy occur in any position other than the Board Chair, the
134 Chair of the Board of Directors must request that the Board Development

Committee identify a candidate for that position and then the Board of Directors must vote to fill the position for the remainder of the term.

3. Duties and Responsibilities. The Board of Directors must:

- a. exercise responsibility and authority for planning, policy making, and ensuring that the Council is achieving its goals and mission;
- b. oversee the affairs of the Council according to the general direction set by the Delegate Council;
- c. hire the CEO;
- d. ensure communication between the Delegate Council and the Board of Directors;
- e. develop and maintain a decision-influencing system allowing for members of the Council, including girl members, to have a voice on key issues affecting the Council;
- f. ensure compliance with all state, federal, and other laws and regulations applicable to nonprofit organizations in Pennsylvania;
- g. maintain a policy regarding conflict of interest. The Board of Directors must complete and sign an annual disclosure statement indicating any conflict or potential conflict with their service on the Board;
- h. establish such standing committees, special committees, or task force groups as it deems necessary. Standing committees must include but not be limited to Finance and Audit;
- i. ensure that the Council meets the Charter requirements of GSUSA; and
- j. recommend amendments of these Bylaws and the Articles of Incorporation to the Delegate Council for its action.

4. Attendance at Meetings. If a member of the Board of Directors is absent for three consecutive meetings, the member's term must automatically lapse, unless their absence is excused by the Board Chair.

5. Regular Meetings.

- a. **Number.** The Board of Directors must hold no fewer than five regular meetings per Governance Year.
- b. **Notice.** Notice must be given no later than 7 days before the meeting. Notice is required to be given to each person in writing personally, by mail, or by electronic communication to the address supplied to the Council by that person for that purpose. Such notice must specify the purpose, place, date and time of the meeting and any other information required by the Pennsylvania Nonprofit Corporation Law of 1988, as amended.

6. Special Meetings. Special Meetings of the Board of Directors may be called by the Board Chair. Special Meetings of the Board of Directors must be called by the Board Chair upon written request of the majority of members of the Board of Directors.

- a. **Purpose.** The purpose of the Special Meeting must be stated in the request, and no other business may be conducted except that for which the meeting has been called.
- b. **Notice.** Notice must be given no later than 48 hours before the meeting. Notice is required to be given to each person in writing personally, by mail, or by electronic communication to the address supplied to the Council by that person for that purpose. Such notice must specify the purpose, place, date and time of

the meeting and any other information required by the Pennsylvania Nonprofit Corporation Law of 1988, as amended.

7. Quorum. A majority of the Board of Directors must be present to constitute a quorum to transact business. All participants must be present in person or linked electronically such that all members are able to actively participate in the proceedings.

8. Removal. The Board of Directors may, by a majority vote of all of the Board Members, remove any Member of the Board of Directors, with or without cause, at any time.

9. Voting Procedures. Each Board Member present is permitted to have one vote.

10. Liability. A Board Member shall not be personally liable, as such, for monetary damages for any action taken or any failure to take action as a Board Member unless:

a. the Board Member has breached or failed to perform the duties of their office as set forth under Subchapter B of Chapter 57 of the Pennsylvania Nonprofit Corporation Law of 1988, as amended; and

b. the breach or failure to perform constitutes self-dealing, willful misconduct, or recklessness.

c. This Section will not apply to the responsibility or liability of a Board Member pursuant to any criminal statute or the liability of a Board Member for the payment of taxes pursuant to federal, state, or local law. Any repeal or amendment of this Section will be prospective only and will not increase, but may decrease, a Board Member's liability with respect to actions or failures to act occurring prior to such change.

11. Chief Executive Officer. The Chief Executive Officer (CEO) must:

a. be an employee and officer of the Council as appointed by the Board of Directors to serve at its pleasure;

b. be accountable to the Board of Directors;

c. perform such duties as assigned by the Board of Directors, through the Board Chair;

d. be responsible for all operations of the Council;

e. have the authority to employ and release all employed staff in accordance with the policies adopted by the Board of Directors;

f. provide advice and support to the Board of Directors, the Delegate Council, and other committees;

g. receive notice of and, except for Executive sessions, have the right to attend the meetings of the Board of Directors, Executive Committee, Board Development Committee and Delegate Council;

h. be an ex officio non-voting member of the Board of Directors, Executive Committee, Board Development Committee and Delegate Council.

12. Girl Advisors to the Board of Directors. A minimum of two and a maximum of three girl members of the Council age 14 or older at the time of election must serve as non-voting Girl Advisors to the Board of Directors and therefore are Delegate Council members.

a. Election, Terms, and Vacancies.

1. **Election.** The Girl Advisors to the Board of Directors must be elected by the Delegate Council members at the Annual Meeting.
 2. **Terms.** The Girl Advisors to the Board of Directors must be elected for a term of one Governance Year. The Governance Year is defined as from the close of one Annual Meeting to the close of the next Annual Meeting. They are permitted to serve no more than two consecutive terms. An individual who has served more than half a term in an elected position will be considered to have served the full term for the purpose of determining eligibility to serve additional terms in that position.
 3. **Vacancy.** Should a vacancy occur in a Girl Advisor position, the vacancy may be filled for the remainder of the term at the discretion of the Board Chair.
- b. **Duties and Responsibilities.** Girl Advisors are expected to attend meetings of the Board of Directors, meetings of the Delegate Council, and may be invited to participate in committees and task forces.

Article IV OFFICERS OF THE BOARD OF DIRECTORS

1. **Elected Officers.** The Officers of the Board of Directors will be a Chair of the Board of Directors (Board Chair), First Vice Chair, Secretary, and Treasurer. One or more additional Vice Chairs may be elected.
2. **Election, Terms, and Vacancies.**
 - a. **Election.** All Officers must be elected in the same year by the Delegate Council at the Annual Meeting.
 - b. **Terms.** Officers must be elected for a term of two Governance Years. The Governance Year is defined as from the close of one Annual Meeting to the close of the next Annual Meeting. Each is permitted to serve no more than three consecutive terms in the same office. After a lapse of one year, a person who reached term limits is eligible for election to the same office. An individual who has served more than half a term in an elected office will be considered to have served the full term for the purpose of determining eligibility to serve additional terms in that office.
 - c. **Vacancies.** Should a vacancy occur in any position other than the Board Chair, the Chair of the Board of Directors must request that the Board Development Committee identify a candidate for that position and then the Board of Directors must vote to fill the position for the remainder of the term. In the event of a vacancy in the position of the Board Chair, the First Vice Chair must complete the unexpired term of the Board Chair.
3. **Duties and Responsibilities.**
 - a. **Chair:** The Chair of the Board of Directors must:
 1. be the principal elected officer of the Council;
 2. preside at all meetings of the Delegate Council, the Board of Directors, and the Executive Committee;
 3. lead the Board of Directors in setting strategic direction and providing oversight of the management and affairs of the Council;
 4. ensure that the directions given by the Board of Directors and the general direction established by the Delegate Council are put into effect;
 5. report to the Delegate Council and the Board of Directors on the conduct and

- 270 management of the affairs of the Council;
- 271 6. serve as an ex officio non-voting member of all committees established by the
- 272 Board of Directors except the Board Development Committee; and
- 273 7. be responsible for performing other duties as assigned by the Board of
- 274 Directors or prescribed in other places in the Bylaws.
- 275 **b. First Vice Chair.** The First Vice Chair must:
- 276 1. act as Board Chair in meetings of the Delegate Council, the Board of
- 277 Directors, and the Executive Committee in the absence or inability of the
- 278 Board Chair to do so or when delegated the responsibility of presiding;
- 279 2. become Board Chair for the remainder of the unexpired term in the event of a
- 280 vacancy in the office of the Board Chair; and
- 281 3. perform duties as assigned by the Board Chair.
- 282 **c. Secretary.** The Secretary must:
- 283 1. ensure that proper notice is given for all meetings of the Delegate Council, the
- 284 Board of Directors, and the Executive Committee;
- 285 2. ensure that minutes of all meetings of the Delegate Council, the Board of
- 286 Directors, and the Executive Committee are kept; and
- 287 3. perform other duties as assigned by the Board Chair.
- 288 **d. Treasurer.** The Treasurer must:
- 289 1. provide effective stewardship and oversight of the Council's finances and
- 290 assets;
- 291 2. execute directives of the Board of Directors;
- 292 3. not chair any standing committee; and
- 293 4. perform such other duties as assigned by the Board Chair.
- 294 **4. Removal.** The Board of Directors may, by a majority vote of all of the Board
- 295 Members, remove any Officer of the Board of Directors with or without cause at any
- 296 time.

297 **ARTICLE V BOARD DEVELOPMENT COMMITTEE**

- 298 **1. Membership.** There must be a Board Development Committee of the Council
- 299 consisting of one Board Development Committee Chair and eight other members
- 300 referred to as Board Development Committee Members-at-Large. The Board
- 301 Development Committee Chair is also a voting member of the Board of Directors. Of
- 302 the Board Development Committee Members-at-Large, three must be members of
- 303 the Board of Directors and five must be non-Board Members.
- 304 **2. Election, Terms, and Vacancies.**
- 305 **a. Election.** The Board Development Committee Chair and the Board Development
- 306 Committee Members-at-Large must be elected by the Delegate Council
- 307 members at the Annual Meeting.
- 308 **b. Terms.** The Board Development Committee must be elected for a term of two
- 309 Governance Years. The Governance Year is defined as from the close of one
- 310 Annual Meeting to the close of the next Annual Meeting. Each member of the
- 311 Board Development Committee is permitted to serve no more than three
- 312 consecutive terms in the same position. After a lapse of one year a person who
- 313 reached term limits is eligible for election to the same position. An individual who
- 314 has served more than half a term in an elected position will be considered to

315 have served the full term for the purpose of determining eligibility to serve
316 additional terms in that position.

- 317 **c. Vacancies.** In the event of a vacancy in any position, the vacancy must be filled
318 by the Board of Directors for the remainder of the term.

319 **3. Duties and Responsibilities.**

- 320 **a. Single Slate.** At the Annual Meeting, the Board Development Committee must
321 present a single slate of nominees for Officers and Directors-at-Large of the
322 Board of Directors, Girl Advisors to the Board of Directors, Board Development
323 Committee Chair, Board Development Committee Members-at-Large, and Girl
324 Delegates to the Delegate Council for election.

- 325 **b. National Council Delegates.** After notice of GSUSA's intention to hold a
326 meeting of the National Council, the Board Development Committee must
327 present a single slate of nominees for Delegates and Alternates to the National
328 Council. The Delegate Council must vote on this slate at the Annual Meeting or
329 a Special Meeting.

- 330 **c. The Board Development Committee** is responsible for working with the Board
331 Chair to perform functions necessary to support a high performing Board
332 including:

- 333 1. identifying, cultivating, soliciting, and recruiting candidates for elected
334 positions in the Council in a strategic and intentional manner; identifying
335 needed skills and talents for the Board of Directors and committees;
336 2. orienting and educating new Board Members to ensure they know their
337 responsibilities, capitalize on the talents of all Board Members, and engage in
338 a continuous learning process;
339 3. evaluating Board Members and candidates using a disciplined assessment
340 process for recruitment, development and education;
341 4. planning for future succession consistent with the strategic needs of the
342 Board of Directors and of the Council.

- 343 **4. Quorum.** A majority of members of the Board Development Committee must be
344 present to constitute a quorum to transact business. All participants must be present
345 in person or linked electronically such that all members are able to actively
346 participate in the proceedings.

- 347 **5. Attendance at Meetings.** If a member of the Board Development Committee is
348 absent for three consecutive meetings, the member's term must automatically lapse,
349 unless excused by the Board Development Committee Chair.

- 350 **6. Removal.** The Board of Directors may, by a majority vote of all of the Board
351 Members, remove any Member of the Board Development Committee, with or
352 without cause, at any time.

- 353 **7. Nominations from the Floor.** Nominations may be made from the floor at the
354 Annual Meeting, provided the eligibility of the individual nominated has been
355 established as set forth below:

- 356 **a.** the individual is a registered member of Girl Scouts of Eastern Pennsylvania;
357 **b.** written consent of such individual has been secured; and
358 **c.** the Nomination / Self-nomination Form of the person to be nominated has been
359 submitted to the Board Development Committee Chair, at the Council Office, at
360 least 7 days before the Annual Meeting.

ARTICLE VI EXECUTIVE COMMITTEE

1. **Membership.** The Executive Committee must include the Officers of the Board of Directors and two Board of Directors-at-Large recommended by the Board Chair and approved by the Board of Directors for a term of one Governance Year. The Governance Year is defined as from the close of one Annual Meeting to the close of the next Annual Meeting.
2. **Duties and Responsibilities.** The Executive Committee has the authority of the Board of Directors between meetings of the Board of Directors, except that the Executive Committee does not have the authority to take any action which is contrary to or a substantial departure from the direction established by the Board of Directors. The Executive Committee must report actions taken to the Board of Directors at its next Board Meeting.
3. **Meetings and Notice.** The Board Chair, as deemed necessary, or upon written request of at least 3 members of the Executive Committee, may call meetings of the Executive Committee. Notice must be given no later than 24 hours before the meeting. Notice is required to be given to each person in writing personally, by mail, or by electronic communication to the address supplied to the Council by that person for that purpose. Such notice must specify the purpose, place, date and time of the meeting and any other information required by the Pennsylvania Nonprofit Corporation Law of 1988, as amended.
4. **Quorum.** A majority of the Executive Committee will constitute a quorum to transact business. All participants must be present in person or linked electronically such that all members are able to actively participate in the proceedings.

ARTICLE VII FINANCE AND CONTROL OF ASSETS

1. **Fiscal Year.** The Board of Directors must establish the fiscal year of the Council.
2. **Contributions.** Any contributions, bequests, devises, and gifts made to the Council must be accepted or collected as authorized by the policies established by the Board of Directors.
3. **Financial Resources.** All funds of the Council must be deposited to the credit of the Council under such conditions and in such financial institutions as are designated by the Board of Directors.
4. **Budget.** The Board of Directors must approve the annual operational and capital budgets. No expenses or debts can be incurred in excess of budgetary appropriations without the approval of the Board of Directors.
5. **Audits.** An independent certified public accounting firm must be retained by the Board of Directors to conduct an annual examination and audit of the financial accounts of the Council. A report of such examination and audit must be submitted to the Board of Directors. An annual financial report and copy of the audit must also be submitted to GSUSA and must be available to the membership and the public as prescribed by Pennsylvania Nonprofit Corporation Law of 1988, as amended.
6. **Financial Reports.** A summary of the financial conditions of the Council must be presented to the Membership at the Annual Meeting and made available to the public as prescribed by law.
7. **Property.** Except for troop/group property, all property must be titled in the name of the Council.

- 406 **8. Signatory Authority.** Approvals for signatory authority in the name of the Council
407 and access to funds and securities of the Council must be authorized by the Board
408 of Directors.
- 409 **9. Insurance.** The Council will maintain appropriate insurance, including but not limited
410 to Directors and Officers insurance, to safeguard the Council's assets, in accordance
411 with the policies established by the Board of Directors.
- 412 **10. Legal Counsel.** Independent legal counsel must be retained by the Council to
413 ensure compliance with federal and state requirements and to review and revise any
414 and all legal instruments that the Council executes as deemed necessary.
- 415 **11. Investments.** The funds of the Council must be invested in accordance with the
416 policies established by the Board of Directors.

417 **ARTICLE VIII PARLIAMENTARY AUTHORITY**

419 The current edition of Robert's Rules of Order must be the parliamentary authority
420 governing the meetings of the Delegate Council and Board of Directors.

421 **ARTICLE IX AMENDMENTS**

- 422 **1. Board of Directors.** The Board of Directors has the authority, by a majority vote, to
423 recommend amendments to the Bylaws and the Articles of Incorporation to the
424 Delegate Council.
- 425 **2. Delegate Council.** The Delegate Council has the authority to amend, alter, or repeal
426 the Bylaws and Articles of Incorporation and to adopt new Bylaws and Articles of
427 Incorporation. The Bylaws and Articles of Incorporation may be repealed in their
428 entirety and newly adopted Bylaws or Articles of Incorporation may be enacted in
429 their entirety without the necessity of individual action section by section, provided
430 notice of such proposal has been included with the notice of the meeting at which
431 the vote is to occur. These amendments must pass with a vote of two-thirds of the
432 Delegate Council members who are present and voting.

433 **ARTICLE X STANDARD OF CARE: JUSTIFIABLE RELIANCE**

- 434 **1.** A Board Member must stand in a fiduciary relation to the Council and must perform
435 their duties as a Board Member, including duties as a member of any committee of
436 the Board of Directors upon which the Board Member may serve, in good faith, in a
437 manner the Board Member reasonably believes to be in the best interests of the
438 Council and with such care, including reasonable inquiry, skill, and diligence, as a
439 person of ordinary prudence would use under similar circumstances.
- 440 **2.** In performing their duties, a Board Member will be entitled to rely in good faith on
441 information, opinions, reports or statements, including, without limitation, financial
442 statements and other financial data, in each case prepared or presented by any of
443 the following:
- 444 **a.** one or more officers or employees of the Council whom the Board Member
445 reasonably believes to be reliable and competent in the matters presented;
 - 446 **b.** counsel, public accountants or other persons as to matters which the Board
447 Member reasonably believes to be within the professional or expert competence
448 of such person; or

- 449 c. a committee of the Board of Directors upon which the Board Member does not
450 serve, duly designated in accordance with law, as to matters within its designated
451 authority, which committee the Board Member reasonably believes to merit
452 confidence.
- 453 3. A Board Member will not be considered to be acting in good faith if the Board
454 Member has knowledge concerning the matter in question that would cause their
455 reliance to be unwarranted.

456 **ARTICLE XI INDEMNIFICATION**

457 **1. Representative Defined.**

458 For purposes of this Article, “representative” means any Member of the Board of
459 Directors or Officer of the Board of Directors but does not include any individual who
460 is compensated by the Council for services as an Officer of the Council.

461 **2. Mandatory Indemnification.**

462 The Council shall indemnify any representative who was or is a party or is
463 threatened to be made a party to any threatened, pending or completed action or
464 proceeding, whether civil, criminal, administrative or investigative (including an
465 action by or in the right of the Council, provided the Council shall have consented to
466 such action on its behalf), by reason of the fact that the individual is or was a
467 representative of the Council, or is or was serving at the request of the Council as a
468 director or officer of another domestic or foreign corporation for profit or not-for-profit,
469 partnership, joint venture, trust, or other enterprise (including an employee benefit
470 plan), against expenses (including attorneys’ fees), judgments, fines, and amounts
471 paid in settlement actually and reasonably incurred by them in connection with the
472 action or proceeding if they acted in good faith and in a manner they reasonably
473 believed to be in, or not opposed to, the best interests of the Council and, with
474 respect to any criminal proceeding, had no reasonable cause to believe their
475 conduct was unlawful. Notwithstanding the foregoing, the Council shall indemnify
476 any representative seeking indemnification in connection with an action or
477 proceeding (or part thereof) initiated by that person only if that action or proceeding
478 (or part thereof) was authorized by the Board of Directors or the Council is ordered
479 to indemnify that person by a court of law. Furthermore, no indemnification shall be
480 made under this Article in respect of any claim, issue, or matter as to which the
481 representative has been adjudged to be liable to the Council unless and only to the
482 extent that the court of common pleas of the judicial district embracing the county in
483 which the registered office of the Council is located or the court in which the action
484 was brought determines that the representative is fairly and reasonably entitled to
485 indemnity.

486 **3. Procedure for Effecting Indemnification.**

487 Unless ordered by a court, any indemnification under Section 2 shall be made by the
488 Council only as authorized in the specific case upon a determination that
489 indemnification of the representative is proper in the circumstances because they
490 have met the applicable standard of conduct set forth in that Section. The
491 determination shall be made:

a. by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to the action or proceeding; or

b. by the Delegate Council.

4. Advancing Expenses.

If authorized by the Board of Directors, the Council shall pay expenses (including attorneys' fees) incurred in defending any action or proceeding referred to in Section 2 in advance of the final disposition of the action or proceeding upon receipt of any undertaking, satisfactory in form and substance to the Board, by or on behalf of the representative to repay the amount if it is ultimately determined that he or she is not entitled to be indemnified by the Council as authorized in this Article or otherwise.

5. Coverage Exclusions.

No indemnification may be made by the Council under this Article or otherwise to or on behalf of any person to the extent that:

a. the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted self-dealing, willful misconduct, or recklessness; or

b. the Board of Directors determines that, under the circumstances and upon the advice of independent legal counsel, indemnification would constitute an excess benefit transaction under section 4958 of the Internal Revenue Code or an act of self-dealing under section 4941 of the Internal Revenue Code, if applicable.

6. Duration and Extent of Coverage; Reliance and Modification.

The indemnification and advancement of expenses provided by or granted pursuant to this Article shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a representative of the Council and shall inure to the benefit of the heirs and personal representatives of that person. Each person who shall act as a representative of the Council shall be deemed to be doing so in reliance upon the rights provided by this Article. The duties of the Council to indemnify and to advance expenses to a representative provided in this Article shall be in the nature of a contract between the Council and the representative. No amendment or repeal of any provision of this Article shall alter, to the detriment of the representative, their right to the advance of expenses or indemnification related to a claim based on an act or failure to act which took place prior to such amendment or repeal.