

**NEW ENGLAND COMMISSION OF
HIGHER EDUCATION, INC.**

(A Massachusetts Nonprofit Corporation)
BYLAWS

Adopted and Effective as of June 7, 2017
Amended and Effective as of April 21, 2023

ARTICLE I

NAME, OFFICE AND PURPOSE

Section 1.01. Name and Office.

(a) The name of the corporation is: New England Commission of Higher Education, Inc. (hereinafter referred to as the "Corporation").

(b) Prior to the formation of the Corporation, the Commission on Institutions of Higher Education was an unincorporated division of the Association with independent and autonomous control over its financial, human resources, and accreditation activities pursuant to certain delegations in the Association bylaws and a certain Memorandum of Understanding, dated September 19, 2013, entered into between the Association and the Commission on Institutions of Higher Education. The Corporation is the successor to the Association's Commission on Institutions of Higher Education and continues that mission as a separate and independent corporation. The Corporation shall hold the assets and liabilities allocated to it as mutually agreed upon with the New England Association of Schools and Colleges.

(c) The principal office of the Corporation shall be located at 301 Edgewater Place, Suite 210, Wakefield, Massachusetts or such other place as may be designated by the Executive Committee. The Corporation may have such other offices within or without the Commonwealth of Massachusetts, as the Commission may designate from time to time.

Section 1.02. Purposes.

The Corporation is organized exclusively to promote charitable and educational activities within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") and is incorporated under chapter 180 of the Massachusetts General Laws (the "Act") for any lawful purpose, not inconsistent with Section 501(c)(3) of the Code, for which a nonprofit corporation may operate under the laws of the Commonwealth of Massachusetts including, in particular, the following:

(i) To provide educational, accrediting, quality assurance and other services to its member institutions, degree granting post-secondary educational institutions offering higher education and located inside or outside the United States;

(ii) To serve as an accrediting agency recognized by the United States Department of Education and authorized by the departments of education or equivalent government authority of each state or relevant jurisdiction to conduct voluntary, non-governmental peer review and make decisions concerning the accreditation or pre-accreditation status of member institutions, programs, or both;

(iii) To promote quality assurance and improvement through voluntary accreditation via peer evaluation and instill public confidence in its institutional members' missions, goals, performance, and resources through its rigorous accreditation standards and their enforcement, and

(iv) To initiate and sustain such training and research activities as may be consistent with the general purposes of Commission.

ARTICLE II GOVERNANCE

Section 2.01. Non-member Nonprofit Corporation.

(a) As stated in its Articles of Organization, the Corporation is a non-member nonprofit corporation. Except as otherwise provided in these Bylaws, the board of directors of the Corporation (the "Commission") shall have full power to conduct, manage and direct its business and affairs, and all powers are hereby granted to and vested in the Commission in accordance with Article IV of these Bylaws.

(b) Any action or vote required or permitted by the Act to be taken by members of the Corporation shall be taken by action or vote of the same percentage of the directors of the Corporation.

ARTICLE III INSTITUTIONAL MEMBERS

Section 3.01. Qualifications.

(a) All institutions that are accredited and that are in good standing with respect to payment of dues and other obligations of such institutions shall be institutional members of the Corporation. Accreditation shall be established according to the standards, policies, and processes of the Commission.

(b) The Commission shall establish and maintain all regulations and conditions governing institutional membership in the Corporation; however, in according membership therein, or the privileges thereof, the Commission shall not discriminate against an institution or organization on the basis of race, color, sexual orientation, marital status, religion, sex, gender identity, national origin, age, or disability of any person associated with the institution or organization being considered for such membership.

(c) In no event shall institutional members be deemed to be members of the Corporation for any purpose under the Act or any other provision of applicable law.

Section 3.02. Termination of Membership.

Institutional membership shall automatically terminate whenever such institution withdraws voluntarily, is removed from the accredited list by the Commission in accordance with its standards and procedures (member status shall continue until the member's appeal, if any is filed, is exhausted) or fails to pay its annual membership dues for two (2) successive years, unless such non-payment is waived by the Commission upon a showing of good cause.

Section 3.03. Annual Conference.

The Corporation shall hold an annual conference for institutional members and candidates for institutional membership for educational and other accreditation-related activities. The Commission shall report

annually at such conference on the state of the Corporation and shall conduct such other business as the Commission may decide is necessary and advisable and hold its annual meeting as provided for in Section 4.07.

Section 3.04. Institutional Members' Dues, Fees and Charges.

Annual dues, fees for Commission services, and other charges shall be established by the Commission.

ARTICLE IV THE COMMISSION

Section 4.01. General Powers and Responsibilities of the Commission.

Subject to the limitations of the Corporation's Articles of Organization, these Bylaws, and applicable law, the activities and affairs of the Corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the board of directors. By convention, the directors of this Corporation are referred to as Commissioners, and the board of directors is referred to as the Commission. For all purposes of the Act, "Commissioners" of this Corporation shall have the same meaning as "Directors", as that term is used in the Act, and the "Commission" of this Corporation shall have the same meaning as the "Board of Directors", as that term is used in the Act. The Commission may delegate the management of the activities of the Corporation to any person or persons, or committees however composed, provided that the activities and affairs of the Corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Commission. Subject to the same limitations, the Commission shall have all powers permitted to or conferred by applicable law on the board of directors of a nonprofit corporation.

Section 4.02. Number, Qualifications and Term of Office.

(a) The Commission shall consist of at least twenty-one (21) voting members, elected as set forth in Sections 4.02(c) and 4.07. Where required by applicable law or regulations, at least one-seventh of the members shall be elected who are broadly representative of the public interest ("Public Member Commissioners"). The Public Member Commissioners may not be: (1) An employee, member of the governing board, owner, or shareholder of, or consultant to, an institution or program that either is accredited or pre-accredited by the agency or has applied for accreditation or pre-accreditation; (2) A member of any trade association or membership organization related to, affiliated with, or associated with the agency; or (3) A spouse, parent, child, or sibling of an individual identified in paragraph (1) or (2) of this definition. Upon their election, Public Member Commissioners shall be asked to sign a statement certifying that they meet the federal definition of a public member. The remaining members shall be currently active professional, academic, or administrative staff or trustees of member institutions or be employed by a higher education organization that represents the interests of member institutions. Individuals shall be elected with consideration to geographical and institutional distribution reflective of the institutional members and other levels of educational institutions.

(b) In addition to the elected voting members, the President of the Commission shall be an *ex officio*, non-voting member of the Commission.

(c) The Commissioners shall be nominated by the Commission and elected by the institutional members at the annual meeting in accordance with the Commission policy on Selection, Ethics, and Responsibilities of Commissioners. Each voting member of the Commission shall be elected to serve a term of three (3) years, commencing on the July 1 immediately following such Commissioner's election to the Commission, and may

hold such office until the expiration of the term for which such Commissioner was elected or until such Commissioner's earlier death, resignation or removal. The initial Commission of the Corporation shall be composed of the Commissioners then serving the Commission on Institutions of Higher Education as Commissioners, who shall each continue to serve for the remaining years of his or her term as a Commissioner of the Corporation, and a newly elected class of Commissioners elected or re-elected to serve a full three (3) year term. Commissioners normally shall serve the Corporation no more than two (2) consecutive elected terms, except that (i) the terms of the Commission Chair and Vice Chair may be extended to allow them to serve their terms of office; and (ii) when it is determined to be in the best interest of the Corporation, such as but not limited to special knowledge, experience, and/or ensuring a balance on the Commission with regard to overall length of service among Commissioners, a Commissioner who has previously served two consecutive three (3) year terms may be elected by the institutional members to a third and final three (3) year term provided that at least one (1) year has elapsed between the end of the second and the beginning of the third term. It is expected that electing a Commissioner to serve a third term shall be an occasional occurrence. Candidates for a third term shall meet all qualifications for office as set forth in Section 4.02(a).

(d) Each Commissioner, in accepting his or her appointment to the Commission, shall have the duty to perform such duties in the best interests of Commission rather than in the particular interests of such member's institutional or regional interests.

Section 4.03. Resignations and Vacancies.

(a) Any Commissioner may resign at any time effective upon giving written notice to the Chair and Clerk, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be designated before such time to take office when the resignation becomes effective. Resignation as a Commissioner shall also constitute resignation as a member of all committees of the Commission, unless the Commission invites the Commissioner to continue service on an advisory committee, ad hoc committee or task force.

All vacancies in the Commission, including those existing as the result of the removal of a Commissioner, shall be filled by a vote of the Commission and elected at the annual meeting. Those Commissioners appointed, by the Commission, to fill a vacancy mid-year shall commence service immediately and then shall be nominated at the annual meeting to serve the balance of the three (3) year term. Such Commissioners shall be eligible for one (1) additional three (3) year term after serving their initial three (3) year term.

(b) A vacancy or vacancies shall be deemed to exist in the case of the death or resignation of any Commissioner.

Section 4.04. Removal.

Any elected Commissioner may be removed from office by the voting members of the Commission or upon recommendation of the Executive Committee without assignment of cause except in the case of a Commissioner who also is an officer of the Corporation, who may be removed only in accordance with Section 6.08. A vote to remove a Commissioner from the Commission shall be by majority of the Commissioners present and eligible to vote. The Commissioner whose removal is being considered may not participate in the vote concerning his or her removal. In the event that any Commissioner shall be so removed, a new Commissioner shall be appointed by the Commission to replace such Commissioner in accordance with the provisions of Section 4.03(c). Removal as a Commissioner shall also constitute removal as a member of all committees of the Commission.

Section 4.05. Regular Meetings.

- (a) There shall be at least five (5) regular meetings of the Commission each calendar year, one of which shall be designated as the annual meeting as set forth in Section 4.07, which will be held during the Annual Conference set forth in Section 3.03. The Executive Committee shall determine the dates, times and places of all regular meetings.
- (b) Notice shall be sent by e-mail, first class mail, fax, telephone or by other reasonable means to each member of the Commission not less than forty-eight (48) hours before any regular meeting.
- (c) Non-attendance at Commission and Committee meetings may seriously jeopardize the integrity of the Commission's work. Commissioners are expected to serve at least twelve (12) days a year, including a minimum of four (4) official meetings. A Commissioner is deemed to have resigned after missing three (3) consecutive Commission meetings and is to resign if unable to serve as needed. The Commission may grant a Commissioner a leave of absence for up to a year.

Section 4.06. Special Meetings

- (a) Special meetings may be called by the Chair, the Executive Committee or at the request of any ten (10) Commissioners.
- (b) Special meetings of the Commission shall be held upon four (4) days' written notice by first class mail or twenty-four (24) hours' notice delivered (i) personally (which may be oral or written), (ii) by telephone, including a voice messaging system, or (iii) by "electronic transmission by the Corporation" (as defined below). Written notice shall be addressed or delivered to each Commissioner at his or her physical or email address, as applicable, as it is shown upon the records of the Corporation, or as may have been given to the Corporation by the

Commissioner for purposes of notice, or, if such address is not shown on such records or is not readily ascertainable, at the place in which the meetings of the Commissioners are regularly held. "Electronic transmission by the Corporation" means a communication (A) delivered by (1) facsimile or email when directed to the facsimile number or email address, respectively, for that recipient on record with the Corporation, (2) posting on an electronic message board or network which the Corporation has designated for those communications, together with a separate notice to the recipient of the posting, which transmission shall be validly delivered upon the latter of the posting or delivery of the separate notice thereof, or (3) other means of electronic communication, (B) to a recipient who has provided an unrevoked consent to the use of those means of transmission for communications under or pursuant to applicable law, and (C) that creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form.

- (c) Notice by mail shall be deemed to have been given at the time a written notice is deposited in the United States mail, postage prepaid. Any other written notice shall be deemed to have been given at the time it is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by electronic means by the person giving the notice to the recipient, as the case may be. Oral notice shall be deemed to have been given at the time it is communicated to the recipient, including by telephone voice messaging system.

Section 4.07. Annual Meeting.

- (a) The Commission will declare the date of the annual meeting of the Corporation.
- (b) The President and Treasurer shall present the Commission at its annual meeting a report, verified by the President and Treasurer, providing a financial report on the Corporation's financial conditions, operating results, and cash flows.
- (c) The annual report of the Commission shall be filed with the minutes of the annual meetings of the Commission.
- (d) An election of Commissioners as provided for in Section 4.02(c) shall be conducted at the annual meeting.
- (e) The annual meeting shall also include such other matters as the Commission deems necessary and appropriate.

Section 4.08. Quorum and Manner of Acting.

At all meetings of the Commission, the presence of a majority of the voting members of the Commission shall be necessary to constitute a quorum and to transact business. Any act of a majority present at a meeting at which there is a quorum shall be the act of the Commission, except as may be otherwise required by law, the Articles of Organization, or these Bylaws. If a quorum shall not be present at any meeting of the Commissioners, the Commissioners present may adjourn the meeting from time to time until a quorum is present. Voting by proxy shall not be permitted.

Section 4.09. Telephone Meetings Permitted.

Members of the Commission shall endeavor to attend all meetings in person, however, members of the Commission, or any Committee designated by the Commission, may participate in a meeting thereof by means of conference telephone call or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in the meeting pursuant to this Section 4.09 shall constitute the presence of a person at such meeting.

Section 4.10. Organization.

At every meeting of the Commission, the Chair or, in the case of the Chair's absence, the Vice Chair or, in the case of the Vice Chair's absence, a Commissioner designated by the Commissioners, shall preside as chairperson. The chairperson may appoint any person to act as secretary of the meeting.

Section 4.11. Action by Written Consent.

Any action required or permitted to be taken at any meeting of the Commission or of any Committee thereof may be taken without a meeting if a majority of voting members of the Commission or Committee, as the case may be, consent thereto in writing and the written consents or writings are filed with the minutes of proceedings of the Commission or any Committee.

Section 4.12. Waiver of Notice.

Notice of a meeting need not be given to any Commissioner who signs a waiver of notice or a written consent to the holding of a meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such Commissioner. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 4.13. Standard of Care; Justifiable Reliance of Commissioners.

(a) A Commissioner shall stand in a fiduciary relation to the Corporation and shall perform his or her duties as a Commissioner, including duties as a member of any committee of the Commission upon which the Commissioner may serve, in good faith, in a manner the Commissioner reasonably believes to be in the best interests of the Corporation and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his or her duties, a Commissioner shall be entitled to rely in good faith on information, opinions, reports or statements, including, without limitation, financial statements and other financial data, in each case prepared or presented by any of the following:

1. One or more officers, employees and consultants of the Corporation whom the Commissioner reasonably believes to be reliable and competent in the matters presented;
2. Counsel, public accountants or other persons as to matters which the Commissioner reasonably believes to be within the professional or expert competence of such person; or
3. A committee of the Corporation upon which the Commissioner does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the Commissioner reasonably believes to merit confidence.

(b) A Commissioner shall not be considered to be acting in good faith if the Commissioner has knowledge concerning the matter in question that would cause his or her reliance to be unwarranted.

(c) Absent breach of fiduciary duty, lack of good faith, or self-dealing, actions taken by the Commission, committees of the Commission, or by individual Commissioners, or any failure to take any action, shall be presumed to be in the best interests of the Corporation.

ARTICLE V COMMITTEES

Section 5.01. Standing Committees of the Commission.

(a) The Corporation shall have the following standing committees: (i) Executive Committee, (ii) Finance and Audit Committee, and (iii) Nominating and Governance Committee.

(b) Except as otherwise provided herein or by resolution of the Commission, the Executive Committee shall designate or endorse the chairperson and members of each committee other than the Executive Committee.

Section 5.02. Executive Committee.

- (a) The Executive Committee shall consist of at least five (5) Commissioners elected by the Commission annually, including the Chair and the Vice Chair. As a decision-making body, it shall include public representation. The Chair shall be the chairperson of the Executive Committee.
- (b) The Executive Committee shall have the authority and responsibility to establish goals and priorities for the Corporation; participate in the Corporation's planning process; serve as the compensation committee for the Corporation; evaluate the President; act on personnel, budget and other administrative and operational matters other than those in the normal course of business; act as a review committee on policy developments; establish committees of the Commission; and perform such other duties and responsibilities as the Commission may delegate to it. The Executive Committee shall have *ad interim* authority to act on behalf of the Commission as necessary between meetings to continue the operation of the Corporation and to take such actions on accreditation and institutional membership as may be necessary. In addition to the above, the Executive Committee, after consultation with the Commission shall be responsible for the hiring and termination of the President.
- (c) The Executive Committee shall meet at least four times annually, either in person or electronically. It may act by a majority of those attending the meeting provided that at least one officer attends and a quorum exists.

Section 5.03. Finance and Audit Committee.

The Finance and Audit Committee shall consist of five (5) members, including the Treasurer and such Commissioners as are appointed by the Executive Committee pursuant to Section 5.02(b) hereof. The Finance and Audit Committee shall advise the Treasurer with respect to financial, budgetary and related matters. The Finance and Audit Committee shall be responsible to select, oversee, engage and terminate the Corporation's independent public accountants as auditors of the Corporation. The Finance and Audit Committee shall be responsible for approving the audit plan, any non-audit services, and the compensation of such independent public accountants. The Finance and Audit Committee shall have the authority, but is not required, to engage independent counsel and other advisors as it deems necessary to carry out its duties. The Finance and Audit Committee shall report on all its actions to the Commission at its next regularly scheduled corporate meeting.

Section 5.04. Nominating and Governance Committee

The Nominating and Governance Committee shall consist of between four (4) and six (6) members, including the Chair and Vice-Chair of the Commission, the NECHE president (*ex-officio*), and Commissioners as appointed by the Executive Committee pursuant to Section 5.02(b) hereof. The Executive Committee shall also appoint the Chair of the Committee to serve a two-year term which can be renewed. The purposes of the Nominating and Governance Committee are annually to recommend to the full Commission candidates for consideration by the institutional members at its annual meeting and as needed from time to time, as well as of officers as required; to recommend to the full Commission any proposed changes to its governing documents including its by-laws; and to recommend to staff and to the Commission procedures for orientation of new Commissioners as well as for the evaluation of Commission processes and procedures. It shall meet at least two times a year and can meet more often as requested by its Chair.

Section 5.05. Other Committees.

- (a) From time to time the Commission may establish one or more additional standing committees of the Commission, and such other advisory and *ad hoc* committees and task forces (which may include both Commissioners and individuals who are not members of the Commission).
- (b) Advisory and ad hoc committees shall make recommendations, by consensus where possible, to the Commission.
- (c) Each committee shall keep regular minutes of its proceedings and report such proceedings periodically to the Commission.
- (d) A non-Commissioner member may be appointed to an advisory or *ad hoc* committee or a task force. Any non-Commissioner appointed to said body shall serve as a non-voting member of the Committee/task force.

Section 5.06. Reimbursement.

Commissioners and committee members shall serve without compensation, with the exception that expenses incurred in the furtherance of Commission's business are allowed to be reimbursed with documentation and approval, as provided in relevant Commission policies.

ARTICLE VI

OFFICERS AND SENIOR STAFF

Section 6.01. Number and Designations of Corporation's Officers.

The officers of the Corporation shall be a Chair, a Vice Chair, a Treasurer, a Clerk, a President, and such other officers as the Commission may designate. The Commission shall elect the Chair, Vice Chair and Treasurer. The Executive Committee shall elect or appoint the Clerk.

Section 6.02. Qualification and Appointment.

In order to be eligible to serve as an officer, a Commissioner must be completing at least the first full year of service on the Commission. Officers are elected for two (2) year terms. Vacancies are filled by the Executive Committee as soon thereafter as convenient. New offices may be created and filled at any meeting of the Commission.

Section 6.03. Chair.

The Chair shall preside at meetings of the Commission. The Chair shall perform all duties attendant to that office, subject to the control of the Commission, and shall perform such other duties as on occasion shall be assigned by the Commission, such as carrying out Commission policies and actions, serving on the Association's Board of Trustees, attending committee meetings if requested, and chairing the Executive Committee.

Section 6.04. Vice Chair.

The Vice Chair may exercise all authority of the Chair in the absence or unavailability of the Chair, or by delegation by the Chair. The Vice Chair shall serve on the Executive Committee and perform other duties as requested and assigned by the Chair, subject to the control of the Commission.

Section 6.05. Treasurer and Clerk.

(a) The Treasurer shall be responsible for the overall financial affairs of the Corporation, in accordance with policies and procedures established by the Commission or the Executive Committee.

(b) The Clerk shall be responsible for assuring that minutes of all meetings of the Commission and the Executive Committee are recorded and that all votes of the Commissioners or the Institutional Members are recorded. The Clerk shall keep and maintain the books and records of the Corporation in accordance with applicable laws and these Bylaws and maintain custody of the seal of the Corporation and affix the same as and when authorized by the Commission and these Bylaws. The Clerk shall perform all duties incident to the office of Clerk and such other duties as may from time to time be assigned by the Commission or Executive Committee.

Section 6.06. President.

The President shall be the chief executive officer of the Corporation and shall have general supervision over the activities and operations of the Corporation, subject to the control of the Commission. The President shall be responsible for the appointment of professional staff officers, the hiring and termination of employees, including support personnel, and independent contractors, and determine all personnel matters relating thereto, including, without limitation, dismissal, promotion, payments of all kind (within the limitations of the Commission's annual budget), termination and job descriptions. The President shall execute and acknowledge, in the name of the Corporation, contracts or other instruments authorized by the Commission, except if the execution thereof has been expressly delegated by the Commission or these Bylaws to some other officer or agent of the Corporation; and perform such other duties incident as are to the office of President.

Section 6.07. Subordinate Officers and Agents.

The Executive Committee, upon recommendation by the President, may from time to time appoint such other staff officers or other agents as the business of the Corporation may require, including one or more Assistant Clerks, and one or more Assistant Treasurers, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these Bylaws, or as the Commission or Executive Committee may from time to time determine.

Section 6.08. Resignation and Removal.

Any officer may resign at any time upon written notice to the Chair and the Clerk. The Commission may remove any officer with or without cause at any time.

Section 6.09. Vacancy.

(a) A vacancy occurring in the office of Chair by death, resignation, removal or otherwise, shall be filled by the current Vice Chair.

(b) A vacancy occurring in any other office by death, resignation, removal or otherwise, may be filled by the Commission for the unexpired portion of the term, at which time the Commission may elect such individual to a regular term of office.

ARTICLE VII

CONFLICTS OF INTEREST AND CONFIDENTIALITY

Section 7.01. Conflict of Interest Policies.

(a) The Commission, its various committee members and peer evaluators and its institutional members shall avoid any conflict or appearance of conflict between personal interests and the interests of the Corporation. The Corporation will maintain a Conflict of Interest Policy for Peer Evaluators and Commissioners and a Conflict of Interest Policy for the Corporation Commissioners serving on the Association board.

(b) Any Commissioner who is uncertain whether he or she has a possible conflict of interest in any matter may request that the Commission or the Executive Committee determine whether such possible conflict exists, whereupon the Commission or Executive Committee shall resolve the question by a majority vote.

(c) All candidates for membership on the Commission shall be advised of these policies prior to assuming their responsibilities as Commissioners. Upon nomination, and each year of service thereafter, each Commissioner shall execute and file with the Clerk an annual conflict of interest disclosure form.

Section 7.02 Confidentiality

(a) One of the basic principles of the accreditation process is confidentiality. While information about the accreditation status of individual institutions is publicly disclosed, the contents of evaluation reports, self-studies, notification letters, and related documents are considered confidential except insofar as the institution chooses to make this information public.

Commissioners shall keep confidential the institutional information gained as a result of their participation on the Commission. Commissioners are asked not to discuss outside the Commission individual institutions or actions taken.

ARTICLE VIII

LIMITATION OF LIABILITY; INSURANCE AND INDEMNIFICATION

Section 8.01. Limitation of Liability of Commissioners.

No Commissioner or officer shall be personally liable, as such, to the Corporation for monetary damages for any breach of fiduciary duty as an officer or Commissioner notwithstanding any provision of law imposing such liability, except (to the extent provided by applicable law) for liability:

(i) for breach of the officer's or Commissioner's duty of loyalty to the Corporation;

- (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or
- (iii) for any transaction from which the officer or Commissioner derived an improper personal benefit

Section 8.02. Insurance.

The Corporation shall purchase and/or maintain insurance on behalf of any person who is or was: a Commissioner, officer of the Corporation or volunteer or is or was serving at the request of the Corporation as a director or officer of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust, or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against that liability under the Act. The Corporation's payment of premiums with respect to such insurance coverage shall be provided primarily for the benefit of the Corporation. To the extent that such insurance coverage provides a benefit to the insured person, the Corporation's payment of premiums with respect to such insurance shall be provided in exchange for the services rendered by the insured person and in a manner so as not to constitute an excess benefit transaction under section 4958 of the Internal Revenue Code of 1986, as amended.

Section 8.03. Indemnification.

The Corporation shall indemnify, to the full extent that it shall have power under applicable law to do so and in a manner permitted by such law, any person made or threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (hereinafter, a "Proceeding"), by reason of the fact that such person is or was a Commissioner, officer, committee member, peer evaluator, employee or agent or a Commission-appointed trustee of the Association. The Corporation shall be required to indemnify a person in connection with a Proceeding (or part thereof) initiated by such person only if the Proceeding (or part thereof) was authorized by the Corporation.

Section 8.04. Advancement of Expenses.

(a) With respect to any person made or threatened to be made a part of any Proceeding, by reason of the fact that such person is or was a Commissioner, Officer, committee member, peer evaluator, employee or agent or a Commission-appointed trustee of the Association, the Corporation shall, in its discretion and upon such terms and conditions as the Corporation deems appropriate, pay the reasonable expenses (including attorney's fees) incurred by such person in defending any such Proceeding in advance of its final disposition (hereinafter an "advancement of expenses").

(b) Any advancement of expenses under this Section shall be made only upon receipt of an undertaking by such person to repay all amounts advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such person is not entitled to be indemnified for such expenses under this Article VIII or otherwise.

Section 8.05. Contract Right and Enforcement.

The right of a Commissioner, officer, committee member, peer evaluator, employee or agent or a Commission-appointed trustee of the Association, under Section 8.03 hereof to indemnification shall be

a contract right. If a Commissioner, Officer, committee member, peer evaluator, employee or agent or a Commission-appointed trustee of the Association is successful in whole or in part in any suit seeking to enforce or determine such individual's right to indemnification pursuant to Section 8.03 hereof, such person shall also be entitled to be paid by the Corporation, the reasonable expenses (including attorney's fees) of prosecuting or defending such suit.

Section 8.06. Nonexclusivity.

The indemnification and advancement of expenses provided in this Article VIII shall not be deemed exclusive of any other rights to which any person indemnified may be entitled under any bylaw, agreement, vote of the Executive Committee or disinterested Commissioners, or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be such a Commission Commissioner, officer, committee member, peer evaluator, employee or agent or a Commission-appointed trustee of the Association, and shall inure to the benefit of the heirs, executors, and administrators of such person.

ARTICLE IX AMENDMENTS

Section 9.01. Scope of Amendments.

Anything in these Bylaws to the contrary notwithstanding, no amendment to the Bylaws or the Articles of Organization shall permit the Corporation to conduct its affairs in a manner inconsistent with Section 501(c)(3) of the Code or other applicable laws.

Section 9.02. Amendments.

(a) Bylaws

The Commission, by the affirmative vote of at least a majority of the voting members of the Commission entitled to vote at any duly constituted regular meeting or special meeting, may alter, amend, or repeal any bylaw, provided that written notice of the proposal of such amendment, alteration, or repeal has been given to all members of the Commission at least ten (10) days prior to such meeting.

(b) Articles of Organization

(i) The voting members of the Commission, by an affirmative vote of two-thirds of all of the voting members entitled to vote at any duly constituted regular or special meeting of the members of the Corporation, may amend the Articles of Organization of the Corporation, provided that written notice of the proposal of such amendment, together with a copy of the proposed amendment or a summary thereof, has been given to all members of the Commission at least ten (10) days prior to such meeting. In the event that this provision is in conflict with the Act, the provisions of the Act shall govern.

(ii) Upon approval of such proposed amendment, Articles of Amendment may be executed, acknowledged, and filed with the Secretary of State of the Commonwealth of Massachusetts.

ARTICLE X MISCELLANEOUS

Section 10.01. Fiscal Year.

The fiscal year of the Corporation shall begin the first day of October of each year and end on the thirtieth day of September next succeeding.

Section 10.02. Execution of Documents.

Subject to the provisions of applicable law, any note, mortgage, evidence of indebtedness, contract, conveyance, or other instrument in writing and any assignment or endorsement thereof executed or entered into between the Corporation and any other person, when signed by the Chair or the President, and by the Clerk or any Assistant Clerk of the Corporation, shall be valid and binding on the Corporation in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same. Any such instruments may be signed by any other person or persons and in such manner as from time to time shall be determined by the Commission, but, unless so authorized by the Commission, no such person or persons shall have any power or authority to bind the Corporation by any contract or engagement to pledge its credit or to render it liable for any purpose or amount.

Section 10.03. Corporate Records.

The Corporation shall keep (a) minutes of the proceedings of the Commission, and (b) appropriate, complete, and accurate books or records of account, at its registered office or the principal place of business or any actual business office of the Corporation.

Section 10.04. Meeting Procedures.

Meetings of the Commission and Committees shall be conducted pursuant to rules contained in the current edition of Roberts Rules of Order Newly Revised where applicable and not inconsistent with these Bylaws or other procedural rules that may be adopted from time to time by the Commission.

ARTICLE XI DISSOLUTION

The Corporation may be dissolved, liquidated, and its corporate existence terminated in accordance with the applicable statutes of the Commonwealth of Massachusetts and in accordance with its Articles of Organization.