

**AMENDED AND RESTATED BY-LAWS  
(AS AMENDED THROUGH JULY 2017)**

**ARTICLE I: NAME**

The name of the Corporation is Unity Preparatory Charter School of Brooklyn (the “Corporation”).

**ARTICLE II: MEMBERSHIP**

The Corporation has no members. The rights which would otherwise vest in the members under the New York Not-For-Profit Corporation Law shall instead vest in the board of trustees of the Corporation (the “Board of Trustees”). Actions which would otherwise require approval under the New York Not-For-Profit Corporation Law or any other statute by a majority of all members or approval by the members shall instead require approval by the Board of Trustees.

**ARTICLE III: BOARD OF TRUSTEES**

**A. Powers.** The Board of Trustees shall conduct and direct the affairs of the Corporation and exercise its powers, subject to applicable provisions of the New York Education Law, New York Not-for-Profit Corporation Law, the Corporation’s Charter and these By-laws. Subject to any limitations under the New York Not-For-Profit Corporation Law (including, without limitation, Section 514 thereunder) and any other applicable statute, the Board of Trustees may delegate the management of the activities of the Corporation to others, so long as the affairs of the Corporation are managed, and its powers are exercised, under the Board of Trustees’ ultimate jurisdiction.

Without limiting the generality of the powers hereby granted to the Board of Trustees, but subject to the same limitations, the Board of Trustees shall have all the powers enumerated in these By-laws, and the following specific powers:

1. To elect and remove Trustees;
2. To select and remove officers, agents and employees of the Corporation; to prescribe powers and duties for them; and to fix their compensation;
3. To conduct, manage and control the affairs and activities of the Corporation, and to make rules and regulations;
4. To enter into contracts, leases and other agreements which are, in the Board of Trustees’ judgment, necessary or desirable in obtaining the purposes of promoting the interests of the Corporation;
5. To operate Unity Preparatory Charter School of Brooklyn (the “School”);
6. To cause the Corporation to become exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”);

7. To carry on the business of operating the Corporation and apply any surplus that results from the business activity to any activity in which the Corporation may engage;

8. To act as trustee under any trust incidental to the Corporation's purposes, and to receive, hold, administer, exchange and expend funds and property subject to such a trust;

9. To acquire real or personal property, by purchase, exchange, lease, gift, devise, bequest, or otherwise, and to hold, improve, lease, sublease, mortgage, transfer in trust, encumber, convey or otherwise dispose of such property;

10. To borrow money, incur debt, and to execute and deliver promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations and other evidences of debt and securities;

11. To lend money received only from private sources and to accept conditional or unconditional promissory notes therefor, whether interest or non-interest bearing, or secured or unsecured; and

12. To indemnify and maintain insurance on behalf of any of its Trustees, officers, employees or agents for liability asserted against or incurred by such person in such capacity or arising out of such person's status as such, subject to the provisions of the New York Not-for-Profit Corporation Law and the limitations noted in these By-laws.

**B. Number of Trustees; Residency Goals.**

1. Number. The number of Trustees of the Corporation constituting the entire Board of Trustees shall be no fewer than five and shall not exceed 11. Subject to such limitation, the number of Trustees shall consist of such number as shall be determined from time to time by action of the Board of Trustees. The Board of Trustees may adjust the number of Trustees by resolution of the Board of Trustees or amendment of the By-laws. The Board of Trustees may (but is not required to) include a parent/guardian representative and/or interested members of the community. For the purposes of these By-Laws, the entire Board of Trustees shall consist of the number of Trustees elected or appointed at the most recent election of Trustees, as well as any Trustees whose terms have not yet expired.

2. Residency Goals. The Trustees shall endeavor to have at least two Trustees serving on the Board of Trustees who are residents of the district in which the School is located, *provided that* no action of the Board of Trustees shall be deemed invalid (or quorum or majority requirement be deemed not to have been fulfilled) as a result of fewer than two such Trustees serving on the Board of Trustees at any time.

**C. Initial Trustees; Election of Trustees; Observers.**

1. Initial Trustees. The initial Trustees shall be the persons named in the Charter.

2. Election. The Board of Trustees shall elect the Trustees by the vote of a majority of the Trustees then in office, whether or not the number of Trustees in office is sufficient to

constitute a quorum, or by the sole remaining Trustee. Trustees-elect assume office subject to approval by the New York State Board of Regents (the “Charter Entity”).

3. Eligibility. In order to be eligible for election, a person must be nominated by a then-serving Trustee. The Board of Trustees may elect any person who in its discretion it believes will serve the interests of the Corporation faithfully and effectively, *provided* that no employee of the Corporation or any other person who has a conflict of interest prohibited under Sections 801 through 806 of the New York General Municipal Law shall be eligible to serve as a Trustee.

4. Organizational Affiliations. Not more than 40% of the persons serving on the Board of Trustees may be a trustee or employee of a single organization.

5. Term of Office.

a. The initial Trustees shall serve until (i) the later of the Corporation’s 2013 Annual Meeting (as defined below) and such time as such Trustee’s successor has been duly chosen and qualified or (ii) such Trustee’s earlier incapacity, death, resignation or removal, each to serve until his or her successor has been duly chosen and qualified, or until such officer’s earlier incapacity, death, resignation or removal. Thereafter, a Trustee’s term of office shall expire on (i) the later of the Corporation’s third Annual Meeting following such Trustee’s election and such time as such Trustee’s successor has been duly chosen and qualified or (ii) such Trustee’s earlier incapacity, death, resignation or removal; *provided, however*, that any Trustee elected to fill an unexpired term (whether resulting from the death, resignation or removal or created by an increase in the number of Trustees) shall hold office until the next election of Trustees.

b. The term of office of a Trustee elected to fill a vacancy in these By-laws begins on the date of the Trustee’s election, and continues: (1) for the balance of the unexpired term in the case of a vacancy created because of the resignation, removal, or death of a Trustee, or (2) for the term specified by the Board of Trustees in the case of a vacancy resulting from the increase of the number of Trustees authorized.

c. A Trustee’s term of office shall not be shortened by any reduction in the number of Trustees resulting from amendment to the Charter, the By-laws, or other Board of Trustees action, *provided* that the Board of Trustees may, by a majority of all Trustees then serving on the Board of Trustees, remove any Trustee at any time for cause (which shall include, without limitation, misconduct, incapacity, neglect of duty, violation of any charter provision regarding qualification of trustees, violation of the code of ethics of the Corporation and failure of such trustee to attend three consecutive meetings of the Board of Trustees without an excuse acceptable to the Board of Trustees).

6. Time of Elections. The Board of Trustees shall elect Trustees whose terms begin on July 1st of a given year at the Annual Meeting for that year, or at a regular meeting of the Board of Trustees, or at a special meeting of the Board of Trustees called for that purpose.

**D. Removal of Trustees**. The Board of Trustees may remove a Trustee in accordance with the applicable provisions of the Education Law and the New York Not-for-Profit Corporation Law and as provided in Article III(C)(5)(c), above.

**E. Resignation by Trustee.** A trustee may resign by giving written notice to the Chairperson or Secretary or the Board of Trustees. The resignation is effective upon receipt of such notice, or at any later date specified in the notice. The acceptance of a resignation by the Chairperson or Secretary or the Board of Trustees shall not be necessary to make it effective, but no resignation shall discharge any accrued obligation or duty of a Trustee.

**F. Vacancies.** A vacancy is deemed to occur on the effective date of the resignation of a trustee, upon the removal of a Trustee, upon declaration of vacancy pursuant to these By-laws, or upon a Trustee's death. A vacancy is also deemed to exist upon the increase by the Board of Trustees of the authorized number of Trustees.

**G. Compensation of Trustees.** Trustees shall serve as Trustees without compensation. However, the Board of Trustees may approve reimbursement of a Trustee's reasonable and documented out-of-pocket actual expenses while conducting Corporation business. For the avoidance of doubt, nothing in this Article III(G) shall be deemed to restrict a Trustee from receiving compensation in his or her capacity as an officer or employee of the Corporation to the extent permitted by law.

**H. Observers.** The Head of School, the School's Director of Curriculum, Instruction & Assessment and the School's Director of School Culture and Civic Enrichment shall be non-voting observers ("Observers") to the Board of Trustees, in each case for so long as they are associated with the School. In addition, the Board of Trustees may designate one parent of a child matriculating in the School to be an Observer to the Board of Trustees. Any parent designated as an Observer in accordance with this Article III(H) shall serve for a term of one year. Observers shall be provided notice of all meetings of the Board of Trustees and of any Board Committee to which the Board of Trustees grants them observer privileges at the same time and in the same manner as notice is given to Trustees, *provided, however*, that in the discretion of the Board of Trustees, Observers may be excluded from participating in executive sessions of the Board of Trustees or any Board Committee.

#### **ARTICLE IV: PRINCIPAL OFFICE**

The Corporation's principal office shall be at the address of the School; or at such other place as the Board of Trustees may select by resolution or amendment of the By-laws. The Secretary shall note any change in office on the copy of the By-laws maintained by the Secretary.

#### **ARTICLE V: MEETINGS OF THE BOARD; ACTION WITHOUT MEETINGS**

**A. Place of Meetings.** Meetings of the Board of Trustees shall be held at the Corporation's principal office or at any other reasonably convenient place as the Board of Trustees may designate.

**B. Annual Meetings.** An annual meeting of the Board of Trustees (the "Annual Meeting") shall be held in the month of June of each year for the purpose of electing Trustees, making and receiving reports on corporate affairs, and transacting such other business as comes before the meeting.

**C. Regular Meetings.** Regular meetings of the Board of Trustees shall be held each year on dates determined by the Board of Trustees. Board of Trustee meetings shall be held once every month on a schedule determined by the Board of Trustees at its first meeting during each academic year of the School.

**D. Special Meetings.** A special meeting of the Board of Trustees shall be held at any time called by the Chairperson, the Vice Chairperson or the Secretary. In addition, at any time upon the demand of any three Trustees (or if there are three or fewer Trustees remaining, by all of the remaining Trustees), the Chairperson, the Vice Chairperson, the Secretary, or in their absence the senior Trustee, shall call a special meeting of the Board of Trustees. For purposes of this Article V(D), seniority shall be according to the order in which the trustees are named in the Charter or subsequently elected.

**E. Adjournment.** A majority of the Trustees present at a meeting, whether or not a quorum, may adjourn the meeting to another time and place.

**F. Notices.** Public notice of meetings shall be given as required by law. Notice of the date, time, and place of all regular and special meetings of the Board of Trustees shall be given to each Trustee by the Secretary or any other Trustees calling such meeting in accordance with Article V(D). Such notice shall be given to each Trustee in person, by mail or by telephone, telegram, facsimile transmission, or electronic mail sent to such Trustee's usual or last known business address, home address or e-mail address not less than five and not more than 10 days in advance of the meeting, *provided* that notice of special meetings to discuss matters requiring prompt action shall be given no less than 48 hours in advance of the meeting and, *provided further, that* if all Trustees are present for a meeting or otherwise indicate in writing in advance (including by email) that they waive such 48 hours' notice, special meetings to discuss matters necessitating immediate action may be convened on less than 48 hours' advance notice. Except as required by law, notice of any meeting of Trustees need not be given to any Trustee who (x) either before or after the meeting, delivers a written waiver of notice, executed by the Trustee (or the Trustee's attorney-in-fact thereunto authorized), which is filed with the records of the meetings; or (y) attends the meeting and who, either prior to the meeting or at its commencement, fails to protest the lack of such notice. Except as otherwise required by law, the Charter, or these By-Laws, a notice or waiver of notice need not specify the purpose of any regular or special meeting unless such purpose is: either (x) the amendment or repeal of any provision of the Charter or these By-Laws; or (y) the removal of a Trustee or an officer.

**G. Waiver of Notice.** Notice of a meeting need not be given to a Trustee who signs a waiver of notice or written consent to hold the meeting or an approval of the minutes of the meeting, whether before or after the meeting, or attends the meeting without protest prior to the meeting or at its commencement, of the lack of notice. The Secretary shall incorporate all such waivers, consents and approvals into the minutes of the meeting. Such waiver of notice may be written or electronic. If written, the waiver must be executed by the Trustee by signing such waiver or causing his or her signature to be affixed to such waiver by any reasonable means, including a facsimile signature. If electronic, the transmission of the waiver must be sent by e-mail and set forth, or be submitted with, information from which it can reasonably be determined that the transmission was authorized by said Trustee.

**H. Open Meeting Laws.** All meetings of the Board of Trustees shall be conducted in accordance with the New York Open Meeting Law and any other applicable similar law, as amended from time to time, or any successor statute. Except as otherwise permitted by law:

1. No quorum of the Board of Trustees shall meet in private for the purpose of deciding in or deliberating toward a decision on any matter, and

2. No executive session shall be held until: (a) the Board of Trustees shall have first convened in an open session for which notice shall have been given in accordance with law; (b) a majority of the Trustees at such meeting shall have voted to go into executive session; (c) the vote of each Trustee shall have been recorded on a roll call vote and entered into the minutes; and (d) the Chairperson (or other person presiding over the meeting) shall have cited the purpose of the executive session and shall have stated whether or not the Board of Trustees shall reconvene after the executive session. Executive sessions may be held only for purposes permitted by law.

**I. Action by the Board without a Meeting.** Any action required or permitted to be taken by the Board of Trustees or any Board Committee may be taken without a meeting if all members of the Board of Trustees or the Board Committee consent to the adoption of a resolution authorizing the action. Such consent may be written or electronic. If written, the consent must be executed by each Trustee by signing such consent or causing his or her signature to be affixed to such consent by any reasonable means, including a facsimile signature. If electronic, the transmission of the consent must be sent by e-mail and set forth, or be submitted with, information from which it can reasonably be determined that the transmission was authorized by said Trustee.

The resolution and the written consents thereto by the members of the Board of Trustees or Board Committee shall be filed with the minutes of the proceedings of the Board of Trustees or Board Committee. Action by the Board of Trustees without a meeting shall occur only to the extent permitted by the New York Open Meeting Law.

## **ARTICLE VI: ACTION BY THE BOARD**

**A. Quorum.** Unless a greater proportion is required by law, half the entire Board of Trustees shall constitute a quorum for the transaction of any business or any specified item of business. Trustees who are present at a meeting but not present at the time of a vote because of a conflict of interest or related party transaction may be counted for purposes of establishing quorum, but may not be present or participate in the deliberations of voting related to such conflict of interest or related party transaction, as the case may be.

### **B. Action by the Board of Trustees.**

1. Actions Taken at Meetings. Except as otherwise provided by statute or by these By-laws, the vote of a majority of the Trustees present at the time of the vote, if a quorum is present at such time, shall be the act of the Board of Trustees. If at any meeting of the Board of Trustees there shall be less than a quorum present, the Trustees present may adjourn the meeting until a quorum is obtained.

2. Participation by Other Means. In all events, a quorum of Trustees must be present to lawfully conduct a meeting of the Board of Trustees. To the extent permitted by the New York Open Meeting Law, Trustees participating by means of video-conferencing may be counted toward achieving a quorum. Trustees participating by means of videoconferencing shall do so from a site at which the public may attend, listen, and observe. Once a quorum is present, additional Trustees may participate in a meeting through conference telephone or similar communication equipment, *provided* that all Trustees participating in such meeting can hear one another and there is no objection from any Trustee or any person in the public audience. Trustees other than those in-person or participating by live video-conferencing shall not vote.

3. Purchase, Sale, Mortgage or Lease of Real Property. No purchase of real property shall be made by the Corporation, and the Corporation shall not sell, mortgage, lease, exchange or otherwise dispose of its real property, unless authorized by the vote of a majority of the Trustees of the Board of Trustees or of a majority of a committee authorized by the Board of Trustees. If the Corporation authorizes a committee to act, the committee shall promptly report any actions taken to the Board of Trustees, and in no event after the next regularly scheduled meeting of the Board of Trustees. If such property constitutes, or would constitute upon the purchase thereof, all or substantially all of the assets of the Corporation, then the vote of two-thirds of the entire Board of Trustees shall be required in accordance with paragraph 4 of this Part B.

4. Disposition of All or Substantially All the Assets of the Corporation. If the Corporation wishes to sell, lease or exchange all or substantially all of its assets, such action may be made upon such terms and conditions and for such consideration as may be authorized by the vote of two-thirds of the entire Board of Trustees. The Corporation shall then be required to seek approval for such action from the Attorney General or the supreme court in the judicial district or of the county court of the county in which the Corporation has its office or principal place of carrying out the purposes for which it was formed.

### **C. Board Committees.**

1. Appointment of Board Committees. There shall be an executive committee (the “Executive Committee”), an audit and finance committee (the “Audit and Finance Committee”), and a student learning committee (the “Student Learning Committee”) of the Board of Trustees. Subject to Article VI(c)(5), the Board of Trustees may create such additional committees (such committees, together with the Executive Committee, the Audit and Finance Committee and the Student Learning Committee, the “Board Committees”) for any purpose. The Board of Trustees shall designate the members of Board Committees, *provided* that (i) at least one member of the Audit and Finance Committee shall be a “financial expert” within the meaning of item 407(d)(5)(i) of the U.S. Securities and Exchange Commission’s Regulation S-K, (ii) each member of the Audit and Finance Committee must satisfy the requirements for “independence” under the Sarbanes-Oxley Act and Section 102(a) of the New York Not-For-Profit Corporation Law, and (iii) each member of each committee shall be a Trustee of the Corporation. The Board of Trustees shall specify at the time of creation of each Board Committee whether such Board Committee is advisory or whether such Board Committee may take binding actions for the Corporation.

2. Executive Committee. The Executive Committee shall meet in intervals between meetings of the Board of Trustees and, subject to Article VI(c)(4), shall transact such business of the Corporation as the Board of Trustees may authorize from time to time.

3. Audit and Finance Committee. The Audit and Finance Committee shall be advisory and shall provide its recommendations to the full Board of Trustees from time to time for review and acceptance by the Board of Trustees. It shall be the responsibility of the Audit and Finance Committee to (a) provide annual recommendations regarding the appointment of the independent external auditor for the Corporation; (b) meet with the independent external auditor prior to commencement of the audit to review the scope and plan of the audit; (c) review and discuss with the independent external auditor (1) any risk assessment of the Corporation's fiscal operations developed by the auditor, (2) any restrictions on the scope of the auditor's activities or access to requested information, (3) any significant disagreements between the auditor and the Corporation's management and (4) the adequacy of the Corporation's accounting and financial reporting processes; (d) receive and review the draft annual audit report and accompanying draft management letter and, working directly with the independent external auditor, assist the Board of Trustees in interpreting such documents; (e) make a recommendation to the Board of Trustees on accepting the annual audit report; (f) review every corrective action plan developed by the Board of Trustees; (g) assist in the implementation of such plan; (h) consider annually the performance and independence of the independent external auditor; and (i) assist in the oversight of the internal audit function of the Corporation, including, but not limited to, providing recommendations regarding the appointment of the internal auditor for the Corporation, reviewing significant findings and recommendations of the internal auditor, monitoring the Corporation's implementation of such recommendations, and evaluating the performance of the internal audit function.

The Audit and Finance Committee shall, in addition to the performance of the duties outline above, be comprised solely of independent Trustees.

Only independent Trustees may participate in any Board of Trustees or Board Committee deliberations or voting relating to the Board of Trustees' audit oversight responsibilities, though the Board of Trustees or Board Committee may request that a person with an interest in the matter present information or answer questions prior to the commencement of deliberations or voting relating thereto. For purposes of these By-Laws, independent Trustee shall mean a Trustee (i) who is not, and has not been within the last three years, an employee or a key person (as defined in the Corporation's Conflict of Interest Policy) of the Corporation or any of its affiliates; (ii) who has not received, in any of the last three years, more than \$10,000 in direct compensation from the Corporation or an affiliate of the Corporation (other than reimbursement for expenses reasonably incurred while carrying out his or her duties as a Trustee); (iii) who is not a current employee of and does not have a substantial financial interest in any entity that has provided payments, property or services (other than charitable contributions, dues or fees paid to the Corporation for services which the Corporation performs as part of its nonprofit purposes or payments made by the Corporation at fixed or non-negotiable rates or amounts for services received) to, or received payments, property or services from, the Corporation or an affiliate of the Corporation if the amount paid by the Corporation to the entity or received by the Corporation from the entity for such property or services, in the last three years, exceeded (x) the lesser of \$10,000 or two percent of the Corporation's gross revenue if the Corporation's



consolidated gross revenue was less than \$500,000, (y) \$25,000 if the Corporation's consolidated gross revenue was \$500,000 or more but less than \$10,000,000 or (z) \$100,000 if the Corporation's consolidated gross revenue was \$10,000,000 or more; (iv) who is not a current owner (wholly or partially), director, officer or employee of the Corporation's outside auditor; (v) who has not worked on the Corporation's audit at any time during the past three years; and (vi) who does not have any relative who is described in (i) through (v). An affiliate of the Corporation means any entity controlled by, or in control of, the Corporation. A "relative" of an individual means (i) his or her spouse or domestic partner as defined in Section 2994-a of the New York Public Health Law, (ii) his or her ancestors, brothers and sisters (whole or half-blood), children (natural or adopted), grandchildren, great-grandchildren, and (iii) the spouse or domestic partner of his or her brothers, sisters, children, grandchildren, and great-grandchildren.

4. Student Learning Committee. The Student Learning Committee shall be advisory and shall provide its recommendations to the full Board of Trustees from time to time for review and acceptance by the Board of Trustees. It shall be the responsibility of the Student Learning Committee to (i) oversee the development of the School's academic program by the School's professional staff; (ii) review proposed amendments to the academic program from time to time; (iii) develop reporting requirements for the Head of School and other professional staff to the Student Learning Committee; (iv) develop and calibrate the academic achievement goals for the School; (v) receive and review the reports of the Head of School and other professional staff; and (vi) interact with the Head of School and the School's other professional staff in the event the School fails to meet any of its academic achievement goals, and oversee the adoption and implementation of a remediation plan in the event the School fails to meet its academic achievement goals.

5. Minimum Size of Board Committees. A Board Committee shall consist of not fewer than three Trustees, who shall serve at the pleasure of the Board of Trustees, *provided* that there shall be no fewer than five members of the Executive Committee.

6. Authority of Board Committees. The Board of Trustees may delegate to a Board Committee any of the authority of the Board of Trustees, except with respect to: (a) the election or removal of Trustees or officers; (b) filling vacancies on the Board of Trustees or any Board Committee; (c) the amendment of the Charter or other formation documents, amendment or repeal of By-laws or the adoption of new By-laws; (d) the creation of any Board Committee; (e) granting degrees; (f) the approval of the sale, lease, exchange or other disposition of substantially all of the Corporation's assets or a merger or plan of dissolution; (g) amending or repealing any resolution of the Board of Trustees which by its terms cannot be amended or repealed; and (h) any other matter specified in Section 712(a) of the New York Not-For-Profit Corporation Law.

7. Procedures of Committees. The Board of Trustees may prescribe the manner in which the proceedings of any Board Committee are to be conducted. In the absence of such prescription, a Board Committee may prescribe the manner of conducting its proceedings, except that the regular and special meetings of the Board Committee are governed by the provisions of these By-laws and the New York Open Meetings Law with respect to the calling of meetings.

#### **D. Standard of Care.**

1. **Performance of Duties.** Each Trustee shall perform all duties of a Trustee, including duties of any Board Committee, in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. In carrying out such duties, the Board of Trustees shall take into account the considerations specified in Section 717(a) of the New York Not-For-Profit Corporation Law.

2. **Reliance on Others.** In performing the duties of a Trustee, a Trustee shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, presented or prepared by: (a) one or more officers or employees of the Corporation whom the Trustee believes to be reliable and competent in the matters presented; (b) counsel, public accountants or other persons as to matters that the Trustee believes are within that person's professional or expert competence; or (c) a Board Committee on which the Trustee does not serve, duly designated in accordance with a provision of the Corporation's Charter or By-laws, as to matters within its designated authority, *provided* the Trustee believes the Board Committee merits confidence and the Trustee acts in good faith, and with that degree of care specified in Article VI(D)(1), and after reasonable inquiry when the need is indicated by the circumstances, and without knowledge that would cause such reliance to be unwarranted.

3. **Investments.** In investing and dealing with all assets held by the Corporation for investment, the Board of Trustees shall exercise the standard of care described above in Article VI(D)(1), and shall comply with all applicable obligations under, and consider among other relevant considerations those factors specified in, Section 552 of the New York Not-For-Profit Corporation Law. Subject to Section 514 of the New York Not-For-Profit Corporation Law, the Board of Trustees may delegate its investment powers to others, *provided* that those powers are exercised within the ultimate direction of the Board of Trustees.

**E. Rights of Inspection.** Each Trustee may inspect and copy all books, records and documents of every kind and inspect the physical properties of the Corporation, *provided* that such inspection and copying (i) is conducted at a reasonable time after reasonable notice, and (ii) shall be subject to the confidentiality obligations set forth in Article VI(G).

**F. Participation in Discussions and Voting; Conflicts of Interest.**

1. **Participation in Meetings and Votes.** Except as prohibited by law, including Sections 801 through 806 of the New York General Municipal Law, each Trustee may, subject to Articles III(C)(3) and VI(F)(2), participate in the discussion and vote on all issues before the Board of Trustees or any Board Committee.

2. **Recusal.** A Trustee shall recuse him or herself from the discussion of, and shall not be entitled to vote on, any matter involving such Trustee relating to: (a) any transaction or other conflict of interest between such Trustee (or any affiliate or relative of such Trustee or any entity or association in which such Trustee, affiliate or relative serves as a director or officer or has a significant financial interest), on the one hand, and the Corporation, on the other hand; (b) indemnification of that Trustee uniquely; (c) any determination by the Board of Trustees to appoint such Trustee as an officer of the Corporation in accordance with Article VII; (d) in the case of a Trustee who is also an officer or employee of the Corporation, the compensation or benefit programs in which such person participates in his or her capacity as an officer or

employee of the Corporation; or (e) any other matter with respect to which applicable law or the Corporation's Code of Ethics or Conflicts of Interest Policy would make it impermissible for such person to participate in discussion or approval of such matter. Nothing set forth in this Article VI(F)(2) shall be construed to permit the entry by the School into any contract that would give rise to a conflict of interest prohibited under Sections 801 through 806 of the New York General Municipal Law. A "relative" of an individual for purposes of these By-Laws is his or her (i) spouse, ancestors, brothers and sisters (whether whole or half-blood), children (whether natural or adopted), grandchildren, great grandchildren, and spouses of brothers, sisters, children, grandchildren and great-grandchildren, or (ii) domestic partner

3. Conflict of Interest and Whistleblower Policy. The Board of Trustees shall adopt and oversee the implementation of and compliance with a conflict of interest policy and whistleblower policy. No Trustee who is an employee of the Corporation may participate in any Board of Trustees or Board Committee deliberation or voting relating to the administration of the Whistleblower Policy. No person who is the subject of any whistleblower complaint may be present at or participate in any Board of Trustees or Board Committee deliberation or vote on the matter relating to such complaint, provided that nothing in this section shall prohibit the Board of Trustees or Board Committee from requesting that the person who is subject to the complaint present information as background or answer questions at a Board Committee or Board of Trustees meeting prior to the commencement of deliberations or voting relating thereto.

**G. Duty to Maintain Confidences**. Each Trustee shall maintain the confidentiality of all actions of the Board of Trustees which are not required by law to be disseminated to the public, including discussions and votes which take place at any executive sessions of the Board of Trustees conducted in accordance with Article V(H), *provided* that this Article VI(G) shall not restrict a Trustee from making disclosures required in connection with any judicial or administrative proceedings (by oral questions, interrogatories, requests for information or documents, subpoena, Civil Investigation Demand or similar process).

**H. Chairperson; Vice Chairperson; Secretary**. The Board of Trustees may elect from among the Trustees a Chairperson (hereinafter "Chairperson"), Vice Chairperson (hereinafter "Vice Chairperson") and a Secretary (hereinafter the "Secretary").

1. Chairperson. The Chairperson shall preside at Board of Trustees meetings and shall have the power to convene meetings of the Board of Trustees from time to time in accordance with Article V(F). The Chairperson shall have such other powers and perform such other duties as the Board of Trustees may prescribe from time to time. No employee of the Corporation shall serve as Chairperson or hold any other title with similar responsibilities unless the Board of Trustees approves such employee serving as Chairperson by a two-thirds vote of the entire Board of Trustees and contemporaneously documents in writing the basis for the Board of Trustees' approval; provided, however, that no such employee shall be considered an independent Trustee as contemplated under the By-Laws or in the New York Not-for-Profit Corporation Law.

2. Vice Chairperson. If the Chairperson is absent or disabled, the Vice Chairperson shall perform all the Chairperson's duties and, when so acting, shall have all the Chairperson's

powers and be subject to the same restrictions. The Vice Chairperson shall have such other powers and perform such other duties as the Board of Trustees may prescribe from time to time.

3. **Secretary**. The Secretary shall: (a) keep or cause to be kept, at the Corporation's principal office, or such other place as the Board of Trustees may direct, a book of minutes of all meetings of the Board of Trustees and Board Committees, noting the time and place of the meeting, whether it was regular or special (and, if special, how authorized), the notice given, the names of those present, and the proceedings; (b) keep or cause to be kept a copy of the Corporation's Charter and By-laws, and all amendments thereto; (c) have the power to convene meetings of the Board of Trustees from time to time in accordance with Article V(F); and (d) have such other powers and perform such other duties as the Board of Trustees may prescribe from time to time.

4. **No Casting Vote**. No Trustee serving as Chairperson, Vice Chairperson or Secretary shall have a casting vote at any meeting of the Board of Trustees or any Board Committee.

## **ARTICLE VII: OFFICERS**

**A. Officers**. The Board of Trustees may appoint such officers of the Corporation as the Board of Trustees deems advisable. For the avoidance of doubt, any Trustee may serve as an officer of the Corporation if so appointed by the Board of Trustees, *provided* that the Chairperson may not act as Treasurer (as defined below) of the Corporation. All officers as between themselves and the Corporation shall have such authority and perform such duties in the management of the Corporation as may be provided by the Board of Trustees and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the Board of Trustees. The Board of Trustees may require any officer to give security for the faithful performance of his or her duties.

**B. Head of School**. In the event the Board of Trustees so determines, the Board of Trustees may designate an officer who shall serve as head of the School (such officer, in such capacity, the "Head of School").

**C. Treasurer**. In the event the Board of Trustees so determines, the Board of Trustees may designate an officer who shall be assigned responsibility for managing the Corporation's finances (such officer, in such capacity, the "Treasurer"). The Treasurer shall: (i) keep or cause to be kept adequate and correct accounts of the Corporation's properties, receipts and disbursements; (ii) make the books of account available at all times for inspection by any Trustee; (iii) deposit or cause the deposit of the Corporation's monies and other valuables in the Corporation's name and to its credit, with the depositories the Board of Trustees designates; (iv) disburse or cause the disbursement of the Corporation's funds as the Board of Trustees directs; (v) render or cause to be rendered to the Chairperson and the Board of Trustees, as requested but no less frequently than once every fiscal year, an account of the Corporation's financial transactions and financial condition; (vi) prepare or cause the preparation of the Corporation's financial statements and any reports on financial issues required by law, any agreement or as directed by the Board of Trustees; and (g) have such other powers and perform such other duties as the Board of Trustees may prescribe.

**D. Term of Office; Removal.** Each officer serves at the pleasure of the Board of Trustees, holding office until resignation, removal or disqualification from service, or until his or her successor is elected. Any officer may be removed by the Board of Trustees at any time, with or without cause.

### **ARTICLE VIII: NON-LIABILITY OF TRUSTEES**

No Trustee shall be personally liable for the Corporation's debts, liabilities or other obligations.

### **ARTICLE IX: INDEMNIFICATION; INSURANCE**

#### **A. Indemnification.**

1. The Corporation shall indemnify each person made, or threatened to be made, a party to any action or proceeding, other than one by or in the right of the Corporation to procure a judgment in its favor, whether civil or criminal, by reason of the fact that such person or such person's testator or intestate is or was a Trustee or officer of the Corporation, or serves or served at the request of the Corporation on any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise in any capacity, against all judgments, fines, penalties, amounts paid in settlement and reasonable expenses, including reasonable attorneys' fees, actually and necessarily incurred as a result of such action or proceeding, or any appeal therein, *provided* that such officer or Trustee acted in good faith for a purpose which he or she reasonably believed to be in (or, in the case of service to any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, not opposed to) the best interests of the Corporation, and, in criminal actions or proceedings, in addition, had no reasonable cause to believe that his conduct was unlawful; and *provided, further*, that no such indemnification shall be required with respect to any settlement or other non-adjudicated disposition of any threatened or pending action or proceeding unless the Corporation has given its prior consent to such settlement or other disposition.

2. The Corporation shall indemnify any person, as above provided, in connection with an action by or in right of the Corporation to procure a judgment in its favor, except that no such indemnification shall be made in respect of (i) a threatened action or a pending action which is otherwise disposed of, or (ii) any claim, issue or matter as to which such person shall have been adjudged liable to the Corporation, 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 person is fairly and reasonably entitled to indemnity for such portion of the settlement amount and expenses as the court deems proper.

3. The Corporation shall advance or promptly reimburse, upon request, any person entitled to indemnification hereunder for all expenses, including attorneys' fees, reasonably incurred in defending any action or proceeding in advance of the final disposition thereof upon receipt of an undertaking by or on behalf of such person to repay such amount if such person is ultimately found not to be entitled to indemnification or, where indemnification is granted, to the extent the expenses so advanced or reimbursed or allowed by the court exceed the amount to

which such person is entitled; *provided, however, that* such person shall cooperate in good faith with any request by the Corporation that common counsel be utilized by the parties to an action or proceeding who are similarly situated unless to do so would be inappropriate because of actually or potentially differing interests between or among such parties.

4. Nothing herein shall limit or affect any right of any person otherwise than hereunder to indemnification or expenses, including attorneys' fees, under any statute, rule, regulation, certificate of incorporation, by-law, insurance policy, contract or otherwise.

5. In case any provision in this Article shall be determined at any time to be unenforceable in any respect, the other provisions shall not in any way be affected or impaired thereby, and the affected provision shall be given the fullest possible enforcement in the circumstances, it being the intention of the Corporation to afford indemnifications and advancement of expenses to its Trustees and officers, acting in such capacities or in the other capacities mentioned herein, to the fullest extent permitted by law.

6. A person who has been successful, on the merits or otherwise, in the defense of a civil or criminal action or proceeding of the character described in the first two clauses of this Article IX shall be entitled to indemnification as authorized in such clauses. Except as provided in the preceding sentence and unless ordered by a court, any indemnification under this Article IX(A) shall be made by the Corporation if, and only if, authorized in the specific case:

(1) By the Board of Trustees acting by a quorum consisting of Trustees who are not parties to such action or proceeding ("disinterested trustees") upon a finding that the Trustee or officer has met the standard of conduct set forth in the first, and pursuant to the second, clause of this Article IX(A), or,

(2) If a quorum under subparagraph (1) is not obtainable or, even if obtainable, a quorum of disinterested Trustees so directs, by the Board of Trustees upon the opinion in writing of independent legal counsel that indemnification is proper in the circumstances because the standard of conduct set forth in this Article IX(A) has been met by such Trustee or officer.

## **B. Insurance.**

1. The Corporation shall have the power to purchase and maintain insurance (i) to indemnify the Corporation for any obligation which it incurs as a result of the indemnification of Trustees and officers under the provisions of Article IX, (ii) to indemnify Trustees and officers in instances in which they may be indemnified by the Corporation under the provisions of Article IX, and (iii) to indemnify Trustees and officers in instances in which they may not otherwise be indemnified by the Corporation under the provisions of Article IX, *provided that*, in this latter case, all legal requirements are met with regard to the contract of insurance.

2. No insurance so purchased and maintained may provide for any payment, other than the cost of defense, to or on behalf of any Trustee or officer (i) if a judgment or other final adjudication adverse to the insured Trustee or officer establishes that his or her acts of active and deliberate dishonesty were material to the cause of action so adjudicated, or that the person personally gained in fact a financial profit or other advantage to which he or she was not legally

entitled, or (ii) in relation to any risk the insurance of which is prohibited under New York insurance law.

**C. Conditions for Indemnification and Insurance.** Notwithstanding anything herein to the contrary, in no case shall the Corporation indemnify, reimburse, or insure any person for any taxes imposed on such individual under Chapter 42 of the Code. Further, if at any time the Corporation is deemed to be a private foundation within the meaning of section 509 of the Code, then, during such time, no payment shall be made under this Article if such payment would constitute an act of self-dealing or taxable expenditure, as defined in Section 4941(d) or 4945(d), respectively, of the Code. Moreover, the Corporation shall not indemnify, reimburse, or insure any person in any instance where such indemnification, reimbursement, or insurance is inconsistent with Section 4958 of the Code, any other provision of the Code applicable to corporations described in Section 501(c)(3) of the Code, the New York Not-for-Profit Corporation Law, or any other applicable law. Notice should be given to the Attorney General of any application to a court for indemnification under these By-laws.

## **ARTICLE X: PROVISIONS AFFECTING TRUSTEES, OFFICERS AND KEY PERSONS**

### **A. Interested Trustees, Officers and Key Persons.**

The Corporation shall not enter into any related party transaction, except as approved pursuant to the procedures set out in the Corporation's Conflict of Interest Policy. A related party transaction is any transaction, agreement or other arrangement in which a related party has a financial interest and in which the Corporation or any affiliate is a participant, except that a transaction shall not be a related party transaction if: (i) the transaction or the related party's financial interest in the transaction is *de minimis*, (ii) the transaction would not customarily be reviewed by the board or boards of similar organizations in the ordinary course of business and is available to others on the same or similar terms or (iii) the transaction constitutes a benefit provided to a related party solely as a member of a class of the beneficiaries that the Corporation intends to benefit as part of the accomplishment of its mission which benefit is available to all similarly-situated members of the same class on the same terms. A related party includes any Trustee, officer or key person of the Corporation, any relative of such person, or any entity in which any such person or relative of such person has a 35% or greater ownership interest, or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of 5%, as these terms are defined in the Corporation's Conflict of Interest Policy. If the Board of Trustees or a Board Committee determines that a conflict of interest existed with regard to a transaction, the Board of Trustees may ratify the transaction in accordance with the procedures set out in the Corporation's Conflict of Interest Policy.

**B. Loans to Trustees and Officers.** No loans, other than through the purchase of bonds, debentures or similar obligations of the type customarily sold in public offerings, or through ordinary deposit of funds in a bank, shall be made by the Corporation to its Trustees or officers, or to any other corporation, firm, association or other entity in which one or more of its Trustees or officers are directors or officers or hold a substantial financial interest. A loan made in violation of this paragraph shall be a violation of the duty to the Corporation or of the Trustees

or officers authorizing it or participating in it, but the obligation of the borrower with respect to the loan shall not be affected thereby.

**C. Conditions for Loans or Other Transactions.** This Article shall, in no event, be construed to authorize any act of self-dealing within the meaning of Section 4941 of the Code, or any other act expressly prohibited by the Code, the New York Not-for-Profit Corporation Law, the New York General Municipal Law, or any other applicable law.

**D. Limitation of Trustee's Liability.**

1. Unless otherwise provided by law, a Trustee shall have no liability to the Corporation for breach of duty if such breach did not: (A) involve a knowing and culpable violation of law by the Trustee; (B) enable the Trustee to receive an improper personal economic gain; (C) show a lack of good faith and conscious disregard for the duty of the Trustee to the Corporation under circumstances in which the Trustee was aware that his or her conduct or omission created an unjustifiable risk of serious injury to the Corporation; or (D) constitute a sustained and unexcused pattern of inattention that amounted to an abdication of the Trustee's duty to the Corporation.

2. Any repeal or modification of this Section shall not adversely affect any right or protection of a Trustee of the Corporation existing at the time of such repeal or modification.

**ARTICLE XI: OTHER PROVISIONS**

**A. Fiscal Year.** The fiscal year of the Corporation begins on July 1 of each year and ends June 30.

**B. Execution of Instruments.** Except as otherwise provided in these By-laws, the Board of Trustees may adopt a resolution authorizing any officer or agent of the Corporation to enter into any contract or execute and deliver any instrument in the name of or on behalf of the Corporation. Such authority may be general or confined to specific instances. Unless so authorized, no officer, agent or employee shall have any power to bind the Corporation by any contract or engagement, to pledge the Corporation's credit, or to render it liable monetarily for any purpose or any amount.

**C. Checks and Notes.** Except as otherwise specifically provided by the Board of Trustees' resolution, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the Corporation may be signed by the Chairperson of the Board of Trustees, the Head of School, or Treasurer. In addition, the Board of Trustees may appoint additional employees of the Corporation as its designees to sign checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness, within the limits of specific financial policies and procedures to be approved by the Board of Trustees.

**D. Construction and Definitions.** Unless the context otherwise requires, the general provisions, rules of construction, and definitions contained in the New York Not-for-Profit Corporation Law and the New York Education Law shall govern the construction of these By-laws. Without limiting the generality of the foregoing, words in these By-laws shall be read as the masculine or feminine gender, and as the singular or plural, as the context requires, and the



word “person” includes both a corporation and a natural person. The captions and headings in these By-laws are for reference and convenience only and are not intended to limit or define the scope or effect of any provisions.

**E. Conflicts of Interest.** Any Trustee, officer, key person or Board Committee member having an interest in a contract, other transaction or program presented to or discussed by the Board of Trustees or Board Committee for authorization, approval, or ratification shall make a prompt, full and frank disclosure of his or her interest to the Board of Trustees or Board Committee prior to its acting on such contract or transaction. Such disclosure shall include all relevant and material facts known to such person about the contract or transaction that may reasonably be construed to be adverse to the Corporation’s interest. The Board of Trustees or the Board Committee, as the case may be, to which such disclosure is made shall thereupon determine, by vote of a majority of its members (other than any member disclosing such matter), whether the disclosure indicates that a conflict of interest exists or can reasonably be construed to exist. If a conflict is deemed to exist, Article VI(F)(2) shall apply. No such person shall use his or her personal influence on any Trustee voting on any such matter. The minutes of the meeting shall reflect proceedings, including the disclosure made, whether alternative transactions were considered by the Board of Trustees, the vote thereon, the basis for such vote and, where applicable, the abstention from voting and participation. The Secretary of the Board of Trustees shall obtain regular annual written statements from Trustees, officers and key persons disclosing existing and potential conflicts of interest, copies of which shall be provided to the chair of the Audit and Finance Committee. The Board of Trustees may adopt formal policies requiring corrective and disciplinary actions with respect to transgressions of such policies. For the purpose of this Section, a person shall be deemed to have an “interest” in a contract or other transaction if he or she or a relative is the party (or one of the parties) contracting or dealing with the Corporation, or is a director, trustee or officer of, or has a significant financial or influential interest in the entity contracting or dealing with the Corporation.

**F. Interpretation of Charter and Law.** Whenever any provision of the By-laws is in conflict with the provisions of the Charter, the provisions of the Charter shall control. Whenever any provision of the By-laws is in conflict with provisions of applicable law, the provisions of applicable law shall govern and control, including the New York Open Meeting Law.

## **ARTICLE XII: AMENDMENT**

A majority of the Trustees may adopt, amend or repeal these By-laws, subject to approval by the Charter Entity.

**CERTIFICATE OF THE SECRETARY**

The undersigned does hereby certify that the undersigned is the Secretary of the Board of Trustees of the Corporation, an education Corporation duly organized and existing under the laws of the State of New York; that the foregoing By-laws of said Corporation were duly and regularly adopted as such by the Board of Trustees of said Corporation; and that the above and foregoing By-laws are now in full force and effect.

\_\_\_\_\_, Secretary of the Board of Trustees Dated: \_\_\_\_\_