

# BY-LAWS OF THE VALDEZ MUSEUM AND HISTORICAL ARCHIVE ASSOCIATION, INC.

## *Article I* **NAME**

Sec. 1 Name: The official name shall be the Valdez Museum and Historical Archive Association, Incorporated [hereinafter called "the Museum Corporation"].

## *Article II* **OFFICES**

The Principal office of the Museum Corporation in the State of Alaska shall be located in Valdez, Third Judicial District, State of Alaska.

The Museum Corporation shall have and continuously maintain in the State of Alaska registered office, and a registered agent whose office is identical with such registered office, as required by the Alaska Non-Profit Corporation Act. The registered office may be, but need not be; identical with the principal office in the State of Alaska, and the address of the registered office may be changed from time to time by the Board of Directors.

## *Article III* **PURPOSE**

The purpose of the Corporation shall be as set out in the Articles of Incorporation.

## *Article IV* **SEAL**

The Museum Corporation shall have a seal.

## *Article V* **MEMBERSHIP**

Sec. 1 Members: Membership in the Museum Corporation is limited to those persons holding office on the City Council of the City of Valdez, Alaska. A Member shall retain membership until his/her successor takes office on the City Council.

Sec 2 Voting: Each Member may vote on any issue brought before the Members in person, but not by proxy.

## *Article VI* **MEMBERSHIP MEETINGS**

Sec 1 Annual Meetings: The annual meeting of the Members shall be held during the month of October of each year. <sup>1</sup> At such meetings, the Members shall receive reports from the Board of Directors and transact such other business which shall come before the meeting; the place for all meetings will be the City Council chambers unless noticed otherwise. Notice in writing to all Members of the date, time and place of each meeting. This notice shall be given not less than thirty days in advance of the date of the meeting.

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Sec 2 Special Meetings/Notice: Special meetings of the Members may be called by written request to the President of the Members by at least two or more of the Members. A minimum of 24 hours written notice to the Members and the public shall be given prior to convening of special meetings of the members. Notice to all Members which shall include a copy of the agenda for the special meeting. The Members shall not conduct any business at the special meeting unless it appears in the agenda accompanying the notice.

Sec 3 Quorum: A quorum for the transaction of business of any meeting of the Members shall consist of four of the voting membership. Once established, a quorum is valid for the remainder of the meeting so long as at least four voting Members are present.

Sec 4 Executive Sessions: The Members may adjourn any meeting into an Executive session by a majority vote of the quorum present for purposes of discussion as provided in Alaska Statute 44.62.310 and as hereafter amended. The agenda shall state the qualifications of item to be discussed in the Executive Session. Notice of a vote to adjourn to Executive Session must be posted at least 24 hours prior to the start of the meeting. No formal action may be taken in Executive Session.

Sec 5 Voting: A vote by a majority of the votes entitled to be cast on a matter to be voted upon by the Members present at a meeting at which a quorum has been established is an action by the membership.

Approval of four Members is required for:

- a. Removal of a member of the Board of Directors

Approval of six Members is required for:

- a. Amendment of the Articles of incorporation or Bylaws
- b. Merger or consolidation
- c. Sale or other disposal of substantially all of the assets of the Corporation
- d. A decision to expend endowment principal; this action also requires unanimous affirmative vote of the Museum Corporation Board of Directors
- e. Dissolution of the Museum Corporation

Each Member shall have one vote; cumulative voting is not permitted.

## Article VII

### PROHIBITED ACTIVITIES

The Corporation is a non-profit corporation under the laws of the State of Alaska and under Section 501(c)(3) of the Internal Revenue Code. No Member shall take any action which would jeopardize or in any way defeat the Organization's status as a non-profit corporation.

## Article VIII

### BOARD OF DIRECTORS

Sec 1 General Powers: The affairs of the Museum Corporation shall be managed by a Board of Directors, [hereinafter referred to as "the Directors"]. The Directors shall have authority over the operation and administration of the Museum Corporation and will adopt those policies it deems necessary to ensure the Valdez Museum and Historical Archive [hereinafter referred to as "the Museum"] is operated in a professional manner. The directors may employ an Executive Director as it deems necessary to administer and operate the Museum.

Sec 2 Number, Tenure and Election: The number of voting Directors shall be eleven, appointed at large by the Members of the Corporation. One Director may be nominated by the Valdez Native Tribe, Inc. and

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reported in writing to the Members of the Corporation. All appointments to the Board of Directors will be for three years unless such appointment is to fill a vacant position. In this latter event, the person appointed shall complete the remaining term of the director vacating the position.<sup>2</sup>

Sec 3 Vacancies: Any vacancy occurring in the Board of Directors shall be filled by the Members of the Museum Corporation; the appointed Director will serve the balance of the unexpired term of such vacant office.

Sec 4 Replacement: A Director who, without due cause, fails to attend three consecutive regular or special meetings of the Board of Directors may be removed by an affirmative vote by the majority of the quorum present at a regular or special meeting. The motion to declare a Director position vacant shall include a recommendation to fill the vacancy as outlined in Section 3 above.

Sec 5 Meetings: The Board of Directors shall set meetings at a time and place to be fixed by the board. Notice of each regular meeting shall be given by the Secretary in writing to all Board members. Notice shall be given not less than ten nor more than thirty days in advance of the meeting date. No business of the organization shall be conducted unless it appears in the agenda attached to the notice of the meeting.

Sec 6 Meetings to be Public: In accordance with the Alaska State Open Meetings Act, all meetings of the Board of Directors except those qualified as Executive Session shall be open to the public. The journal of proceedings (minutes) shall be open to public inspection.

Sec 7 Quorum: A quorum for the transaction of business of any meeting of the Board of Directors shall consist of six of the voting membership. Once established, a quorum is valid for the remainder of the meeting so long as at least six voting Members are present.

Sec 8 Attendance: Notwithstanding anything elsewhere contained in these By-Laws and to the extent permitted by applicable law, any one or more Directors may participate in a meeting by Teleconferencing. Participation by such means shall constitute presence in person at a meeting of the Directors.

1. Any Director(s) not able to attend a particular meeting must notify their Executive Director as far in advance as possible.
2. A Director may participate via telephone in a Board or Committee meeting, if the Director declares that circumstances prevent physical attendance at the meeting. If the President or Chairperson chooses to participate via telephone, the Vice-Chair or other member physically present shall preside.
3. The Director shall notify the Executive Director, if reasonable, at least twenty- four hours in advance of a meeting which the Director proposes to attend by telephone and shall provide the physical address of the location, the telephone number, and any available facsimile, email, or other document transmission service.
4. At the meeting, the Staff Liaison shall establish the telephone connection when the call to order is imminent.
5. A Director participating by telephone shall be counted as present for purposes of discussion, and voting.
6. The member participating by telephone shall make every effort to participate in the entire meeting. From time to time during the meeting the Chair shall confirm the connection.
7. The Director participating by telephone may ask to be recognized by the Chair to the same extent as any other Director.

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8. To the extent reasonably practicable, the Staff Liaison shall provide backup materials to members participating by telephone.
9. If the telephone connection cannot be made or is made then lost, the meeting shall commence or continue as scheduled and the Staff Liaison shall attempt to establish or restore the connection.
10. Meeting times shall be expressed in Alaska Time regardless of the time at the location of any member participating by telephone.
11. Participation by telephone shall be allowed for regular, special, work sessions and sub-committee meetings of the Committee.
12. Remarks by Directors participating by telephone shall be transmitted so as to be audible by all Directors and the public in attendance at the meeting.
13. All votes shall be taken by audible roll call vote.
14. As used in these rules, "telephone" means any system for synchronous two-way voice communication. "Chairperson" includes the Acting Chair or any other member serving as chair of the meeting.
15. A quorum (majority of the Directors) must be present at all times during a meeting or work session of the committee

## Article IX OFFICERS

Sec 1 Officers: The officers of the Museum Corporation Board of Directors shall be a President, a Vice President, a Secretary, and a Treasurer. Officers shall be Directors of the Museum Corporation. When appointed by the Directors, an Executive Director will serve as a non-voting *ex-officio* Director of the Museum Corporation Board of Directors.

Sec 2 Election of Officers: The officers of the Museum Corporation Board of Directors shall be elected annually by the Directors at their initial meeting following appointment by the Members; voting will take place via secret ballot from candidates nominated from the floor or submitted by a nominating committee appointed by the President of the Board of Directors.

Sec 3 Terms of Office: All officers will serve two-year<sup>3</sup> terms. Except for Initial Directors, a person must serve at least one year as a Director to be eligible to be elected an officer. No person may serve more than two successive terms as President of the Board of Directors of the Museum Corporation.

Sec 4 Duties of Officers: Duties of officers of the Museum Board of Directors are as follows:

- a. PRESIDENT- the President shall be the principal officer of the Museum Board of Directors and shall in general supervise the businesses and affairs of the Museum Corporation. He/She may sign, with the Secretary or any other proper officer of the Museum Board of Directors authorized by the board, any contracts, or other instruments which the Museum Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Museum Board of Directors or by these by-laws or by statute to some other officer or agent of the Museum Board of Directors. In general, he/she shall perform all duties incident to the office of President and such other duties as may be prescribed by the Museum Board of Directors.
- b. VICE PRESIDENT- In the absence of the President or in event of his/her inability or refusal to act, the Vice President shall perform the duties of the President and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice

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President shall perform such other duties as may be assigned by the President or by the Museum Board of Directors.

- c. SECRETARY- The Secretary shall insure the minutes of the Museum Board of Directors meetings be kept in one or more books provided for that purpose; oversee that all notices are duly given in accordance with the provision of the by-laws or as required by law; be custodian of the corporate records and of the seal of the Museum Board of Directors and see that the seal of the Museum Board of Directors is affixed to all legally binding documents the execution of which on behalf of the Museum Corporation under its seal is duly authorized in accordance with the provisions of the by-laws; keep a register of the post office address of each Member which shall be furnished to the Secretary by such Member; and, in general, perform duties incident to the office of Secretary as may be assigned by the President or by the Museum Board of Directors.
- d. TREASURER- The Treasurer shall oversee and be responsible for the accounting of all funds, securities, and properties of the Museum Board of Directors; and shall oversee and be responsible for an annual report for the annual meeting; and, in general, perform all the duties incident to the office of Treasurer and such other duties as may be assigned by the President or by the Museum Board of Directors.

## Article X COMMITTEES

Sec 1 Standing Committees: The Standing Committees of the Museum Board of Directors will consist of a Finance Committee, a Board Development Committee, and a Collections Committee. Descriptions and duties of Standing Committees are as follows:

- a. FINANCE COMMITTEE: The role of the Finance Committee is to provide financial oversight of the Valdez Museum & Historical Archive Association, Inc. Tasks include budgeting and financial planning; monitor adherence to the budget; financial reporting; and the creation and monitoring of internal controls and accountability policies.
  - 1) Finance Committee will meet at least four times a year to review the status of the Museum's financial position. During the first Finance Committee Meeting, the Executive Director will provide a schedule outlining the four meetings to be conducted within the fiscal year.
  - 2) The Finance Committee will include:
    - a) Board of Directors – President
    - b) Board of Directors – Treasurer
    - c) Executive Director
    - d) Committee Member (2)
- b. BOARD DEVELOPMENT COMMITTEE: The role of the Board Development Committee is to give attention to the composition of the Board – and the effective and appropriate involvement of all Directors to ensure continuing vitality and effective governance. Tasks include, but are not limited to:
  - 1) Develop an annual recruitment plan that takes into account the expertise, perspective, judgment and resources needed in new board members. Review potential candidates and present to the Directors.
  - 2) Develop Board Job Descriptions and Committee Job Descriptions that clearly state the role and expectation of the Directors
  - 3) Plan and implement an orientation program, including official briefings, printed materials and individual mentorship to make new Directors part of the Board culture.

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- 4) Conduct an Annual Review of the Board Manual to ensure that the supplemental materials are up to date.
  - 5) Review the talents and interests of current and new Directors and recommend to the Board President, committee assignments most appropriate for their involvement.
  - 6) Recommend to the Board, the policies about expectations for Directors; reaching out to those whose commitment does not match expectations.
  - 7) Encourage participation in special occasions which bond Directors to each other and to the organization.
  - 8) The Board Development Committee will include:
    - a) Board of Directors - Committee Chairperson
    - b) Board of Directors – (2)
    - c) Executive Director
- c. **COLLECTIONS COMMITTEE:** The Collections Committee exists in accordance with the Valdez Museum & Historical Archive's Lease Management Agreement with the City of Valdez as the stewards of the City's historical collections. The Collections Committee's role is to review and make recommendations to the VMHA Board of Directors regarding collection acquisitions, deaccessions, and collections policy revisions. The Collections Committee will meet at least four times a year. Tasks include, but are not limited to:
- 1) Recommendations for deaccessions will be included in the monthly report to the Board of Directors. Upon acceptance by the Board, these recommendations will be passed on to the City Council acting as representatives of the Members of the VMHA as per the museum's collections policy.
  - 2) The Collections Committee will be called upon for approval of collections acquisitions exceeding the year's annual acquisitions budget. In instances where time is of the essence, a consensus may be reached and documented in the committee's report to the Board of Directors.
  - 3) The Collections Committee will include, but is not limited to:
    - a) Board of Directors (Chair)
    - b) Board of Directors – Member
    - c) City Clerk
    - d) Curator of Collections and Exhibitions
    - e) Curator of Education and Public Programs
    - f) 4 Members-At-Large, one each specializing in one of the following areas:
      1. Historical Collections,
      2. Alaska Native Culture,
      3. Art Collections, and
      4. Archives

Sec 2 Other Committees: The Directors may, by resolution, appoint other standing or *ad hoc* committees. Except as otherwise provided in such resolution, the chairpersons of such committee shall be Directors of the Museum Corporation and the President of the Directors shall appoint the chairperson thereof. Any committee-member may be removed by the person or persons authorized to appoint such member whenever in their judgment the best interests of the Museum Corporation shall be served by such removal.

Sec 3 Terms of Office: Each member of a Standing Committee shall be appointed at the first Directors meeting following the annual meeting of the Museum Corporation and will serve a one-year term of office. Terms of appointment to *ad hoc* committees will be defined in the Committee Description.

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Sec 4 Chairperson: One member of each committee shall be appointed Chairperson by the President or the designee authorized to appoint the members thereof.

Sec 5 Vacancies: Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

Sec 6 Quorum: Unless otherwise provided in the Committee Description, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Sec 7 Rules: Rules for each Committee shall be outlined in the Committee Description as long as those rules are consistent with those of these by-laws.

## Article XI

### CONTRACTS, CHECKS, DEPOSITS AND FUNDS

Sec 1 Contracts: The Directors may authorize any officer or officers, agent or agents of the Museum Board of Directors, in addition to the officers so authorized by these by-laws, to enter into any contract, or execute and deliver any instrument in the name of and on behalf of the Museum Board of Directors, and such authority may be general or confined to specific instances.

Sec 2 Checks, Drafts, etc.: All checks drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Museum Board of Directors shall be signed by such officer or officers, agent or agents of the Museum Corporation and in such manner as shall from time to time be determined by resolution of the Directors. In the absence of such determination by the Directors, such instruments shall be signed by the Treasurer and countersigned by the President or Vice President of the Directors.

Sec 3 Deposits: All funds of the Museum Board of Directors shall be deposited to the credit of the Museum Corporation in such banks, trust companies or other depositories as the Directors may select.

Sec 4 Gifts: The Directors may accept on behalf of the Museum Corporation any contribution, gift, bequest or other fiscal device for general purposes or for any special purpose of the Museum Corporation.

Sec 5 Funds: The Directors will establish and manage the general funds of the Museum Corporation and may assign or delegate management authority for these funds to their agent or agents; this assignment will be written and will be specific in defining the authority and limits being assigned or delegated.

Sec 6 Special Funds: The special funds of the Corporation are the Phyllis Irish Memorial Fund and the Valdez Museum Endowment Fund. The Directors may, by resolution, create other special funds to be managed according to and for purposes defined in their instituting resolutions.

- a. Phyllis Irish Memorial Fund- Created by the City Council in 1985, the Phyllis Irish Memorial Fund commemorates a founding member of the Valdez Museum. Its purpose is to provide an interest-bearing revolving account for special museum projects. This fund will be managed by

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the Directors who will have authority for its disbursement; during the annual meeting, the Directors will advise Members of expenditures made from this fund.

- b. Valdez Museum Endowment Fund- Created initially in memory of Clinton J. "Truck" Egan, this fund was instituted by City Council as a separate account to be invested in long-term interest-bearing instruments. The fund's purpose is to provide interest-income to be used ultimately to fund operating expenses of the Valdez Museum in replacement of tax-based General Fund revenues. The Members will hold the Valdez Museum Endowment Fund Principal in perpetual trust for the benefit of the Valdez Museum. The Members will provide policy guidance to the Directors for the administration, management and investment of the Museum Endowment Fund. Expenditures of the fund principal are not anticipated but may be authorized by unanimous affirmative vote by the Members and the Directors in a joint public meeting noticed at least 24 hours in advance; the notice will specify the purposes of the meeting.

## Article XII MUSEUM ADMINISTRATION

Sec 1 Executive Director: The Directors shall select, appoint, determine compensation for, evaluate and discharge a Chief Operating and Administrative Officer with the title of Executive Director. The Executive Director shall be given the necessary authority and responsibility to operate the Museum in all its activities and departments, subject only to such policies as may be issued by the Directors or by any of its committees to which it has delegated power for such action or by such constraints as may be imposed by City, State, and/or Federal laws and regulations.

The Executive Director shall act as the duly authorized representative of the Directors in all matters in which the directors have not formally designated some other person to act.

Sec 2 Authority and Responsibility: The authority and responsibility of the Executive Director shall include:

- a) Carrying out all policies established by the Directors and advising on the amendments to these policies.
- b) Developing and submitting to the Directors for approval a plan of organization for the conduct of Museum operations and recommended changes when necessary.
- c) Preparing an annual budget, including estimated capital expenditures, showing the expected revenues and expenditures as required by the Directors or its committees.
  - i. The Executive Director's fiscal management responsibilities include development, execution and/or oversight of a permanent, formal fund development program to enhance the Museum's non-tax fiscal resources.
- d) Selecting, employing, training, controlling and discharging employees and developing and managing personnel policies and practices for the Museum Corporation.
- e) Maintaining physical properties of the Museum Corporation in a good and safe state of repair and operating condition.
- f) Maintaining the public trust properties entrusted to it in accordance with professional standards of such organizations as the American Association of Museums and the society of American Archivists.
- g) Supervising the business affairs of the corporation to ensure that funds are collected and expended in a manner consistent with their public trust responsibilities and to the best possible advantage of the Museum Corporation.
- h) Working continually with other museum and archive organizations and professionals to the end those high-quality services may be provided at all times.



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- i) Presenting to the Directors and Members and/or their committees periodic reports reflecting the professional services, financial activities, acquisitions, loans [to and from the museum], transfers, and other pertinent information regarding the museum's collections, exhibitions, publications, and programs.
- j) Attending all meetings of the Directors and serving in a person or by appropriate designee on committees thereof; attending all meetings of the Members.
- k) Serving as the liaison and channel for communications between the Board and the Members.
- l) Preparing a plan for the achievement of the Museum Corporation's specific objectives and periodically reviewing and making recommendations for revision of the objectives.
- m) Representing the Museum Corporation in its relationship with other heritage service organizations.
- n) Performing other duties that may be necessary or in the best interest of the Museum.

Sec 3 Performance Review: The performance of the Executive Director shall be reviewed annually by the Directors; this evaluation will be preceded by a self-examination report to the Directors. Adjustments to the Executive Director's compensation may be made on the basis of annual or special evaluations.

## Article XIII MUSEUM STAFF

Sec 1 Authority: The Executive Director will have sole authority for recruitment, selection, appointment and discharge, and determination of duties and compensation levels for all employees of the Museum Corporation. Exercise of this authority will be consistent with applicable rules, schedules, fiscal resources, and policies of the Corporation established and adopted by the Directors and attached as appendices to these by-laws.

Sec 2 Rules: The staff of the Museum Corporation will be employed according to terms defined in Personnel Policy formulated and adopted by the Directors; acceptance of the corporation's Personnel Policy will be a condition of employment.

Sec 3 Compensation, Benefits, etc.: The compensation and benefits for Museum Corporation employees will be in accordance with pay/wage scales and schedules formulated and adopted by the Directors.

## Article XIV CONFLICT OF INTERESTS

Sec 1 Purpose: This conflict of interest Article is to protect the Valdez Museum & Historical Archive (VMHA) interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a Member, Director, Executive Director, Staff or Volunteer of the Museum Corporation; or might result in a possible excess benefit transaction. This Article supplements (not replaces) local, state or federal laws governing conflict of interest applicable to nonprofit and charitable organizations

### Sec 2 Policy:

- a) The Members, Directors, Executive Directors, staff, and volunteers, including immediate family (to include spouse, parents, siblings and children) or someone in the immediate household, shall exercise the utmost good faith in all transactions in which they are involved in the course of their duties for the Museum Corporation. In their dealings with and on behalf of the Museum, they shall

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be held to a strict standard of honest and fair dealings between themselves and the Museum. They shall not use their position or any knowledge gained thereby, in such a way that a conflict may arise between the interests of the Museum Corporation and that of the individual.

- b) All acts of such persons shall be for the best interest of the Valdez Museum Corporation.
- c) Such persons shall not accept any gift, factor or hospitality which would influence their decisions or actions which affect the Museum Corporation.
- d) It is the policy of the corporation to require complete disclosure of any material conflict of interest. Any officer or director of the corporation with a material financial interest or other conflict of interest in an item or items of business of the corporation shall disclose that conflict of interest to the presiding officer. If the conflict of interest arises in the presiding officer it shall be disclosed to the Board. After disclosure, the officer, director or member may not vote on any matter involving the conflict of interest without the consent of the Board.
- e) If a matter before the board involves a “disqualified person” as that term is defined in section 4958 of the IRS Code and the associated regulations, then the Board shall satisfy the requirements of section 4958 as to that “disqualified person” including, but not limited, to the requirements that apply to conflicts of interest and the “safe harbor” standards with regard to the “disqualified person”.

Sec 4 Annual Statements: Each Director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

- a) Has received a copy of the By-laws outlining conflict of interest.
- b) Has read and understands Article XIV, Conflict of Interest
- c) Has agreed to comply with Article XIV, Conflict of Interest, and
- d) Understands the Museum Corporation is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

## *Article XV* FISCAL YEAR

The Fiscal Year of the Museum Corporation shall be the calendar year.

## *Article XVI* INDEMNIFICATION

Sec 1 Non-Derivative Actions: Subject to the provisions of Sections 3, 5, and 6 below, the Museum Corporation shall defend, indemnify and hold financially harmless any person who was or is a part, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (Other than an action or in the right of the Museum Corporation) by reason of or arising from the fact that the person is or was a Member, Director, Officer, employee, or agent of the Museum Corporation, or is or was serving at the request of the Museum Corporation as a director, officer, employee, agent, partner, or trustee of another corporation, partnership, joint venture, trust, or other enterprise, against costs and expenses (including attorney’s fees when counsel is selected by the Directors or Members) of said suit, action or proceeding, judgments, fines and amounts paid in settlement actually or reasonable incurred in connection with the action, suit or proceeding if:

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- a) The person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Museum Corporation and, with respect to a criminal action or proceeding, did not know and had no reasonable cause to believe the conduct was unlawful.
- b) The person's act or omission giving rise to such action, suit or proceedings is ratified, adopted or confirmed by the Museum Corporation or the benefit thereof received by the Corporation.

The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not of itself create a presumption, and settlement shall not constitute any evidence that the person did not act in good faith and in a manner which the person reasonably believe to be in or not opposed to the best interests of the Museum Corporation and, with respect to a criminal action or proceeding, did not know and had no reasonable cause to believe that the conduct was unlawful.

Sec 2 Derivative Actions: Subject to the provisions of 3, 5, and 6 below, the Corporation shall defend, indemnify and hold financially harmless any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of or arising from the fact that the person is or was a Member, Director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation, partnership, joint venture trust or other enterprise, against costs and expenses (including attorney fees when counsel has been selected by the Directors or Members) actually and reasonably incurred in connection with the defense or settlement of such action or suit if:

- a) The person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Museum Corporation, or
- b) The person's act or omission giving rise to such action or suit is ratified, adopted, or confirmed by the Museum Corporation or the benefit thereof received by the Corporation.

No indemnification shall be made in respect of any claim, issue or matter as to which such person as a Member, Director, employee or agent shall have been adjudged to be liable for: (a) a breach of that person's duty of loyalty to the Corporation; (b) acts or omissions not in good faith or that involve intentional misconduct of a knowing violation of law; or (c) a transaction from which the person derives an improper personal benefit, unless, and only to the extent that, the court in which the action or suit was brought, shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for the expenses which the court considers proper.

Sec 3 Denial of Right of Indemnification: Subject to the provisions of section 5 and 6 below, defense and indemnification under sections 1 and 2 of this article automatically shall be made by the Museum Corporation unless it is expressly determined that defense and indemnification of the person is not proper under the circumstances because the person has not met the applicable standard of conduct set forth in section 1 or 2 of this article. The person shall be afforded a fair opportunity to be heard as to such determination. Defense and indemnification payment may be made, in the case of any challenge to the propriety thereof, subject to repayment upon ultimate determination that indemnification is not proper.

Sec 4 Determination: The determination described in section 3 shall be made

- a) By the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to the action or proceeding, or

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- b) If such quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel selected by Directors or Members in a written opinion.

Sec 5 Successful defense: Notwithstanding any other provision of sections 1, 2, 3, or 4 of this article, but subject to the provision of section 6 below, if a person is successful on the merits of otherwise in defense of any action, suit or proceeding referred to in section 1 or 2 of this article, or in defense of any claim, issue or matter therein, the person shall be indemnified against costs and expenses (including attorney fees when counsel is selected by the Directors) actually and reasonably incurred in connection therewith.

Sec 6 Condition Precedent to Indemnification: Any person who desires to receive defense and indemnification under this article shall notify to Museum Corporation reasonably promptly that the person has been named a defendant to an action, suit or proceeding of a type referred to in sections 1 or 2 and that person intends to rely upon the right of indemnification described in this article. The notice shall be in writing and mailed via registered or certified mail, return receipt requested, to the Executive Director of the Corporation at the principal office of the Corporation or, in the even the notice is from the Executive Director, to the Chairman of the Board of Directors and to the registered agent of the Corporation. Notice need not be given when the Corporation is otherwise notified by being named a party to the action. This notice alone does not provide indemnification.

Sec 7 Insurance: At the discretion of the Board of Directors, the Corporation may purchase and maintain insurance on behalf of any person who is or was a Member, Director, officer, employee, agent, partner or trustee of another, corporation, partnership, joint venture, trust or other enterprise against any liability asserted against or incurred by the person in any such capacity, or arising out of the person's status as such, whether or not the Museum Corporation would have the power to defend and indemnify the person against such liability under to provisions of this article.

Sec 8 Former Members, Officers, Directors, etc.: The indemnification provisions of this article shall be extended to a person who has ceased to be a Member, Director, Officer, employee, or agent as described above and shall insure to the benefit of the heirs, personal representatives, executors, and administrators of such person.

Sec 9 Purpose and Exclusivity: The defense and indemnification referred to in the various sections of this article shall be deemed to be in addition to and not in lieu of any other rights to which those defended and indemnified may be entitled under any statute, rule of law or equity, agreement, vote of the Members or Board of Directors or otherwise. The purpose of this article is to augment pursuant to AS 10.06.490 (f), the provisions of AS 10.20.011 (14), and the other provisions of AS 10.06.490.

Sec 10 Limitation of Liability: If set forth in the articles of Incorporation, no Member or Director of the Museum Corporation shall have any personal liability to the Corporation for monetary damages for the breach of fiduciary duty as a Member or Director except as provided in AS 10.20.151 (d).

Sec 11 Director Reliance: In acting for the Museum Corporation and unless the Member or Director has knowledge concerning the matter in question that makes reliance unwarranted, Members or Directors may rely upon information, opinions, reports, or statements, including financial statements, and data prepared by (1) officer, employees, and agent of the Corporation whom the Director believes to be reliable and competent in the matters presented, (2) counsel, public accountants, or other person as to matters that the Director reasonably believes to be within the person's professional or expert competence, and (3)

# BY-LAWS OF THE VICTORIAN MUSEUM AND HISTORICAL ARCHIVE ASSOCIATION, INC.

committees of the Board of Directors as to matters within the authority of the committee which the Director believes to merit confidence.

## *Article XVII* **PARLIAMENTARY PROCEDURES**

Unless inconsistent with law, these By-laws or the Articles of Incorporation, meetings of the Members and Directors shall be conducted in accordance with Roberts Rules of Order; the Directors and Members may modify or suspend the rules by majority vote of those present during a regular or special meeting.

## *Article XIII* **AMENDMENTS**

These By-Laws may be altered, amended or repealed and new By-laws adopted by an affirmative vote of six of the Members of the Corporation present in any regular or special meeting of the Members provided that a full statement of such purpose shall have been published in a notice calling the meeting and written notices of the proposed changes shall have been given to each Member and Director. However, any provision herein contained required to be approved by the Members or which require Member vote or action may not be altered, amended or repealed without such approval by the Members of this Corporation.

## **End Notes**

Amendment 97-1 adopted 3/16/97 by Members: Article V, Sec 2 changing the annual Meeting from September to October. Amended again on 1/22/01 by Members: changed the annual meeting date to any time in October.

Amendment 97-2 adopted 3/16/97 by Members: Art. VII, Sec 3 extending Board officer terms to two years from one year.

Amendment 98-1 adopted 7/20/98 by Members: Art VI, Sec 2 adding two more seats, one at large, one designated for VNT and making all seats three-year terms except when filling a seat vacated early.

Amendment 13-1 adopted 8/5/13 by Members: Art VI, Sec 2 Secretary shall provide 30 days notice, Sec 3 Special Meeting notice, Sec 4 adjourn when less than quorum.

Amendment 13-2 adopted 8/5/13 by Members: Art VII, prohibited activities.

Amendment 13-3 adopted 8/5/13 by Members: Art VIII, Sec 5 agenda and notice of meetings.

Amendment 13-4 adopted 8/5/13 by Members, Art IX, Sec 4 duties of officers.

Amendment 13-5 adopted 8/5/13 by Members, Art X, Sec 1, Descriptions and duties of Standing Committees.

Amendment 13-6 adopted 8/5/13 by Members, Art X, Sec 4, one member of each committee shall be appointed Chairperson by the President or the designee authorized to appoint the members thereof.

Amendment 13-7 adopted 8/5/13 by Members, Art XIV, Sec 1 thru Sec 4, Conflict of Interest purpose and policy.

Amendment 13-7 adopted 8/5/13 by Members, Art XIII, Bylaws may be altered, amended, repealed and new By-laws adopted by an affirmative vote of six of the Members of the Corporation.

Amendment 15-1 adopted 3/2/15 by Members, Art VIII, Sec 6, comply with Alaska Open Meetings Act. Meetings to be public.

Amendment 15-2 adopted 3/2/15 by Members, Art VIII, Sec 8, attendance and teleconferencing.

