

BY-LAWS
of the
ROCHESTER PHILHARMONIC ORCHESTRA, INC.

Ratified by the RPO Membership January 26, 2011

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BY-LAWS
of the
ROCHESTER PHILHARMONIC ORCHESTRA, INC.

ARTICLE I.
MEMBERS

Section 1. **QUALIFICATIONS FOR MEMBERSHIP**

Any individual or family, corporation, foundation, or other entity, who shall pledge and pay to the Corporation for the support of the Corporation's activities, on or prior to the date for determining membership for a given membership year, an amount determined by the Board of Directors for the membership or fund raising campaign concluding in that year, shall be a member of the Corporation for such membership year. Family memberships may include traditional or non-traditional families and shall designate the [up to two] family members for voting, membership card and benefit purposes provided, however, that each family shall be entitled to only one vote. Membership shall terminate at the end of the membership year, and a member's status in a given membership year shall not be affected by such member's status in prior years. The membership year, unless otherwise determined in advance of the start of the membership year by the Board of Directors, shall be the fiscal year of the Corporation.

Section 2. **EVIDENCE OF MEMBERSHIP**

Membership cards shall be issued in the name of each member, including each designated family member in the case of family memberships. Membership and membership cards are not transferable.

Section 3. **OWNERSHIP OF CORPORATE PROPERTY**

The Corporation shall not be operated for profit and its entire properties, assets and facilities shall be devoted to the purpose for which it is organized, as set forth in its Certificate of Incorporation, as the same may from time to time be amended. No member shall have any right to or any share or interest in any of the property or assets of the Corporation, and no member shall be liable, beyond the amount of any unpaid subscription, for any of the debts, liabilities or obligations of the Corporation.

Section 4. **WITHDRAWAL OR SUSPENSION**

Any member may, at any time, voluntarily withdraw from the Corporation without obligation, other than for the unpaid balance of any pledge theretofore made. The Board of Directors may, at any time, suspend or expel any member for non-payment of a pledge, for conduct detrimental to the Orchestra or the Corporation, or for other good cause, provided the member is afforded an opportunity to appear before the Board of Directors at or prior to the meeting at which such suspension or expulsion is made, but no such suspension or expulsion shall relieve such member from liability to the Corporation for any unpaid balance on any pledge theretofore made to the Corporation.

ARTICLE II. MEETINGS OF MEMBERS

Section 1. ANNUAL MEETINGS

A meeting of members entitled to vote shall be held for the election of directors and the transaction of other business during the month of January after the end of the fiscal year, as determined by the Board of Directors.

Section 2. SPECIAL MEETINGS

Special meetings of the members may be called at any time by the Chairperson, the President/CEO, or the Board of Directors. Special meetings of the members may also be called by one hundred (100) members or by ten percent (10%) of the total number of members entitled to vote at such a meeting, whichever number is lesser.

Section 3. PLACE OF MEETINGS

Meetings of members shall be held at the principal office of the Corporation, or at such other place as may be fixed by the Board of Directors.

Section 4. NOTICE OF MEETINGS

(a) Notice shall be given of each meeting of members, shall be in writing, and shall state the place, date and hour of the meeting. Notice of a regular or special meeting shall state the purpose or purposes for which it is being called, and shall also indicate that such notice is being issued by or at the direction of the person or persons calling the meeting.

(b) A copy of the notice of any meeting shall be given, personally or by mail, not less than ten (10) nor more than fifty (50) days before the date of the meeting, to each member entitled to vote at such meeting. If mailed, such notice is given when deposited in the United States mail, with postage thereon prepaid, directed to the member's address as it appears on the record of members, or if a member shall have filed with the Secretary a written request that notices to the member be mailed to some other address, then directed to the member at such other address.

(c) Notice of meeting need not be given to any member who submits a signed waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any member at a meeting in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by the member.

Section 5. QUALIFICATION OF VOTERS

(a) Every member of record of the Corporation, whether an individual, family, foundation, corporation, or other entity, who shall have paid the minimum amount for support of the Corporation in any membership year as determined by the Board of Directors pursuant to Article I, Section 1, shall be entitled at every meeting of the members during said membership year to one vote.

(b) The Board may fix a date as the record date for the purpose of determining the members entitled to vote at any meeting of members or any adjournment thereof. The record date shall not be more than fifty (50) nor less than ten (10) days before the date of the meeting.

Section 6. QUORUM AND ADJOURNED MEETINGS

(a) At any annual or special meeting, either a sufficient number of members entitled to cast ten percent (10%) of the total number of votes entitled to be cast thereat, or one hundred (100) members, whichever number shall be lesser, present in person or by proxy, shall constitute a quorum for the transaction of any business. When a quorum is once present to organize a meeting, it is not broken by the subsequent withdrawal of any member.

(b) The members present, at any meeting of members at which a quorum is present, at any time during said meeting, may adjourn the meeting to another time and place, and it shall not be necessary to give any notice of the adjourned meeting if the time and place to which the meeting is adjourned be announced at the meeting at which the adjournment is taken. If a quorum is present at the adjourned meeting, any business may be transacted that might have been transacted on the original date of the meeting. If after the adjournment, however, the Board of Directors fixes a new record date for determining the members entitled to vote at the adjourned meeting, a notice of the adjourned meeting shall be given to each member then entitled to notice under Section 4 of this Article II of the By-Laws.

Section 7. ORGANIZATION

At every meeting of members the Chairperson or, in the Chairperson's absence, a Vice Chairperson or, in the absence of such officers, the President/CEO or, in the absence of all such officers, a person selected by the meeting, shall act as chairperson of the meeting. The Secretary or, in the Secretary's absence, a person selected by the meeting shall act as secretary of the meeting.

Section 8. VOTING

(a) Whenever any corporate action, other than the election of directors, is to be taken by vote of the members at a meeting, it shall, except as otherwise required by law or by the Certificate of Incorporation or these By-Laws, be authorized by a majority of the votes cast at such meeting.

(b) Each director shall be elected by a plurality of the votes cast at a meeting of members for all the candidates except as otherwise required by law.

(c) The entire list of those nominated to serve as directors shall be alphabetized, and a written ballot prepared. The ballot shall clearly indicate: (1) that candidates have been listed in alphabetical order; (2) that those candidates receiving the highest number of votes will be elected regardless of their listing or position on the ballot; and (3) which candidates are nominees of the Governance Committee, and which are petition candidates nominated pursuant to Section 3(b) of Article III of these By-laws. An information sheet containing a brief summary of biographical data on all director candidates shall be distributed with each ballot. In the event that one or more

directors are being nominated to serve a term of less than three (3) years, the Governance Committee shall designate which of the candidates is running for a term of less than a duration of three (3) years. In case of a tie, the choice shall be decided by lot. Ballots shall accompany the notice of the annual meeting given to members pursuant to Section 4 of this Article II. Each member shall mark the ballot to indicate a choice of candidate or candidates, and shall return the ballot by mail or in person to the inspectors of election, such delivery or postmark to be not later than 5 p.m., Rochester, New York time, two (2) days before the annual meeting. Those members who have not returned their ballots by that time may vote in person by submitting a written ballot at the annual meeting.

Section 9. PROXIES

(a) Every member entitled to vote at a meeting of members or to express consent or dissent without a meeting may authorize another person or persons to act for the member by proxy, except that no proxy shall be permitted or valid with respect to voting in any election of directors. Members absent from a meeting at which any election of directors is held, may exercise their right to vote only by following the ballot procedure set forth in Article II, Section 8c.

(b) Every proxy must be dated and signed by a member (in the case of family memberships, either designated family member may sign). No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the member executing it.

(c) The authority of the holder of a proxy to act shall not be revoked by the incompetence or death of the member who executed the proxy unless, before the authority is exercised, written notice of an adjudication of such acceptance or of such death is received by the Secretary.

Section 10. INSPECTORS OF ELECTION

(a) The Board of Directors, in advance of any members' meeting, may appoint one or more persons to act as inspectors of election at the meeting or any adjournment thereof. If inspectors are not so appointed, the person presiding at a meeting of members may, and on the request of any member entitled to vote thereat shall, appoint one or more inspectors. In case any person appointed fails to appear to act, the vacancy may be filled by appointment made by the Board of Directors in advance of the meeting, or at the meeting by the person presiding thereat. Each inspector, upon accepting appointment, before entering upon the discharge of the acquired duties, shall take and sign an oath faithfully to execute the duties of inspector at such meeting with strict impartiality.

(b) The inspectors shall determine the number of members entitled to vote at the meeting; the existence of a quorum; and the validity and effect of proxies; and shall receive votes, ballots or consents; hear and determine all challenges and questions arising in connection with the right to vote; count and tabulate all votes, ballots or consents; determine the result; and do such acts as are proper to conduct the election or vote with fairness to all members. On request of the person presiding at the meeting or any member entitled to vote thereat, the

inspector shall make a report in writing of any challenge, question or matter determined by them and execute a certificate of any fact found by them. Any report or certificate made by them shall be prima facie evidence of the facts stated and of the vote as certified.

Section 11. LIST OF MEMBERS AT MEETING

A list of members entitled to vote, certified by the Secretary, shall be available at any meeting of members. If the right to vote at any meeting is challenged, the inspectors of election, or person presiding thereat shall require such list or record of members to be produced as evidence of the right of the persons challenged to vote at such meeting, and all persons who appear from such list or record to be members entitled to vote thereat may vote at such meeting pursuant to Article II, Section 5.

**ARTICLE III.
BOARD OF DIRECTORS**

Section 1. POWER OF BOARD AND QUALIFICATION OF DIRECTORS

The Corporation shall be managed by its Board of Directors. In addition, the Board of Directors shall have all powers and duties enumerated in these By-laws and set forth in applicable laws. Each director shall be at least nineteen (19) years of age and be a member of the Corporation.

Section 2. CLASSIFICATION OF DIRECTORS AND THEIR TERM OF OFFICE

The number of directors, elected and *ex officio*, shall not be less than twenty-nine (29), nor greater than thirty-six (36). The term of office of a Director shall be three (3) years. Each of the following persons, by virtue of holding one of the following offices and as long as such office is held, shall serve as an *ex officio* voting member of the Board of Directors: President/CEO of the Corporation; Immediate Past Chairperson of the Board; Dean of the Eastman School of Music; two representatives to the Corporation elected from and by orchestra members of the Rochester Philharmonic Orchestra; Chairperson of the Volunteer Services Committee; and Chairperson of the Honorary Board. All other directors shall be elected by members of the Corporation. Approximately one-third (1/3) of the elected directors, with the exact number each year at the discretion of the Governance Committee, shall be elected each year to serve a full term or an unexpired term. The term of each elected director shall extend through the Annual Meeting in the year in which the term expires. Other than the Immediate Past Chairperson of the Board and the Dean of the Eastman School of Music, no elected director who will have served more than eight (8) continuous service years shall be nominated for re-election. Nothing herein contained shall prevent the election to the Board of Directors of a former director whose prior term expired at least one (1) year prior to the new election of such director.

Section 3. NOMINATION OF DIRECTORS

(a) Nominating by Governance Committee. The Governance Committee shall prepare a list of the names of director candidates to succeed those directors whose terms have expired or who have resigned or have been removed or who have died.

(b) Other Nominations. Other nominations of director candidates must be delivered in writing to the Secretary by October 31, and must be signed by not less than twenty-five (25) members of the Corporation who are, as of October 15, qualified to vote in the election of directors. On receipt of any such other nominations the Secretary shall cause such nominations to be listed on the bulletin board of the offices of the Corporation, printed on ballots distributed to members, published or announced in one or more newspapers, and, if practical, included in the next issue of the RPO News or such other newsletter or written communication then being regularly sent to members. Nominations from the floor at such annual meeting shall not be in order except as otherwise provided by law.

Section 4. ORGANIZATION

At each meeting of the Board of Directors, the Chairperson of the Board or, if absent, a Vice Chairperson, shall preside, or in the absence of any of such officers, a chairperson pro tem chosen by a majority of the directors present shall preside. The Secretary shall act as Secretary of the Board of Directors or, in the absence of the Secretary, the Chairperson shall designate a secretary pro tem.

Section 5. ATTENDANCE AT MEETINGS

It shall be the duty of each director to attend regular and special meetings of the Board of Directors. It shall be the duty of each director to notify the Chairperson of the Corporation, in advance, of any absence from any such meeting. A director who has been absent from three (3) or more regular meetings in any membership year without giving such notice shall be subject to removal upon motion by the Chairperson at any meeting of the Board of Directors, approved by a majority vote of the members of the Board of Directors present and voting at such meeting. Any one or more members of the Board of Directors or any committee thereof may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time, as long as prior consent of the Chairperson or committee chair is received. Participation by such means shall constitute presence in person at a meeting.

Section 6. RESIGNATION

Any director of the Corporation may resign with or without a stated reason at any time by giving written notice to the Chairperson or to the Secretary. Such resignation shall take effect at the time specified therein or, if no time be specified, then on delivery.

Section 7. VACANCIES

Vacancies occurring in the Board of Directors for any reason shall be filled by vote of a majority of directors then in office, regardless of their number. The Governance Committee shall provide the Board, as soon as practicable, with the name of a candidate for each such vacancy. A director elected to fill a vacancy shall hold office until the next Annual Meeting and until a successor is elected and qualified.

Section 8. ACTION BY THE BOARD OF DIRECTORS

Any corporate action to be taken by the Board of Directors means action at a meeting of the Board. Except as otherwise provided by law or these By-Laws, the vote of a majority of the directors present at the time of the vote, if a quorum is present at that time, shall be the act of the Board of Directors. Each director shall have one vote.

Section 9. PLACE OF MEETING

The Board of Directors may hold its meeting at the principal office of the Corporation, or at such place or places within or without the State of New York as the Board of Directors may from time to time by resolution determine.

Section 10. REGULAR MEETINGS

Regular meetings of the Board of Directors may be held at such time as may be fixed from time to time by resolution of the Board of Directors, provided that there be no fewer than six (6) regular meetings of the Board of Directors per year, with at least five (5) days' notice given to each director specifying the agenda, time and place of the meeting.

Section 11. SPECIAL MEETINGS

Special meetings of the Board of Directors shall be held whenever called by the Chairperson of the Board of Directors, by the President/CEO, or by any three (3) of the directors. Notice of the meeting shall be given to each of the directors orally, by telephone, voice mail, fax machine, electronic mail or mail, and shall state the purpose, time and place of the meeting. If notice is given orally, in person, or by telephone, it shall be given not less than one (1) day before the meeting; if it is given by voice mail, fax machine, electronic mail, or by mail, it shall be given not less than three (3) days before the meeting.

Section 12. WAIVERS OF NOTICE

Notice of a meeting need not be given to any director who submits a signed waiver of notice, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice.

Section 13. QUORUM

(a) A majority of the members of the Board of Directors shall constitute a quorum for the transaction of business.

(b) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place, provided that notice thereof shall be given as set forth in Section 11 of this Article III.

Section 14. COMPENSATION

No director other than the President/CEO shall receive compensation for their services, but may be reimbursed with the approval of the Executive Committee for the expenses reasonably incurred by them in the performance of their duties.

Section 15. ANNUAL REPORT

The Board of Directors shall direct the President/CEO to present at the Annual Meeting a report which shall include a summary of: (1) the significant developments and activities of the Corporation; and (2) the actions taken by the Board of Directors, Executive Committee and officers of the Corporation. The Board shall also direct the Treasurer to present at the Annual Meeting an annual report in the form of financial statements certified by independent public accountants selected by the Board of Directors, showing in appropriate detail, the following:

(a) The assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year immediately preceding the date of the report, and ending not more than six (6) months prior to that date.

(b) The principal changes in assets and liabilities, including trust funds, during the fiscal year immediately preceding the date of the report.

(c) The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the fiscal year immediately preceding the date of the report.

(d) The expenses or disbursements of the Corporation for both general and restricted purposes during the fiscal year immediately preceding the date of the report.

Copies of the reports of the President and the Treasurer shall be filed with the records of the Corporation, entered in the minutes of the Annual Meeting, and sent or given to each member before or at the Annual Meeting.

ARTICLE IV. OFFICERS

Section 1. OFFICERS

The officers of the Corporation shall include a Chairperson of the Board of Directors, the Immediate Past Chairperson, a President/CEO, a Secretary, and a Treasurer, and may include one or more Vice Chairpersons and may include a Chairperson-Elect for a period as the Board may determine.

Section 2. ELECTION OF OFFICERS, TERMS AND QUALIFICATIONS

Those officers whose titles are specifically mentioned in Section 1 of this Article IV, with the exception of the Immediate Past Chairperson and President/CEO, shall be elected by and from the Board of Directors at the last scheduled meeting of directors in each fiscal year to take effect for the next fiscal year. Unless a shorter term is provided in the resolution of the Board of Directors electing such officers, the term of office of each officer shall extend to the end of the next fiscal year and until his or her successor is elected and qualified. A Chairperson-Elect may be elected, when determined appropriate, at a scheduled Board Meeting for a term extending to the end of the fiscal year. The President/CEO shall be appointed by the Board of Directors and shall serve at the discretion of the Board.

Section 3. ADDITIONAL OFFICERS

Additional officers may be elected for such period, having such authority and performing such duties as the Board of Directors may from time to time determine.

Section 4. REMOVAL OF OFFICERS

Any officer may be removed by the Board of Directors with or without cause at any time by a vote of two-thirds (2/3) of the entire Board of Directors provided said officer is given an opportunity to appear before the Board of Directors at or prior to the meeting at which the removal action is taken. Removal of an officer without cause shall be without prejudice to said officer's contract rights, if any, but election or appointment to an office shall not, in and of itself, create a contract.

Section 5. RESIGNATION

Any officer may resign at any time by giving written notice to the Chairperson of the Board of Directors, or to the Secretary, who shall bring it to the attention of the Board at the next meeting. Any such resignation shall take effect at the time specified therein or, if no time be specified, then upon delivery.

Section 6. VACANCIES

A vacancy in any office shall be filled only by a majority vote of the Board of Directors. The Governance Committee shall provide the Board, as soon as practicable, with the name of a candidate to fill each such vacancy.

Section 7. CHAIRPERSON OF THE BOARD OF DIRECTORS

The Chairperson of the Board of Directors shall preside at all meetings of the Board of Directors and of the Executive Committee, and shall have such powers and perform such other duties as are properly required by the Board of Directors. The Chairperson of the Board shall be an *ex officio* voting member of all committees except the Governance Committee. The Chairperson shall in collaboration with the President/CEO, appoint all chairpersons of committees subject to the approval of the Board and these By-laws. The Chairperson shall also be empowered, from time to time, to establish and appoint the chairperson of additional

committees, whose charter and period of existence shall be at the pleasure of the Chairperson of the Board. The Chairperson shall have the responsibility of annually evaluating the performance of the President/CEO and reporting to the Executive Committee in executive session.

Section 8. VICE CHAIRPERSONS AND THE CHAIRPERSON-ELECT

Each Vice Chairperson, and the Chairperson-Elect, shall have such powers and shall perform such other duties as may be assigned by the Board of Directors or the Chairperson.

Section 9. PRESIDENT/CEO

The President/Chief Executive Officer shall be employed by the Corporation as the Chief Executive Officer of the Corporation, and it shall be the President/CEO's duty to manage the affairs of the Corporation subject only to the supervision of the Chairperson and the Board of Directors. The President/CEO shall also perform such other duties as may be assigned from time to time by the Chairperson or by the Board of Directors. The President/CEO shall be an *ex officio* voting member of all committees except the Governance Committee. The term of office and term of employment of the President/CEO shall be subject to the approval of the Board of Directors upon recommendation of the Chairperson.

Section 10. TREASURER

The Treasurer shall oversee the receipt and custody of all revenue, endowment, and other funds contributed to or received by the Corporation, for the keeping of accurate records of all such receipts, and for the appropriate procedure for disbursing of the same only upon such certification in such manner as the Board of Directors or the Executive Committee shall direct. The Treasurer shall have full and current access at all times to the financial records of the Corporation and shall report on the financial status and activities of the Corporation at each Annual Meeting and to the Board and Executive Committee at each meeting. The Treasurer shall serve as chairperson of the standing Committee on Finance; shall supervise the preparation of and deliver the reports required by Section 15 of Article III of these By-laws; and shall perform such other duties as usually pertain to this office or as are required of the Treasurer by the Chairperson and/or by the Board of Directors.

Section 11. SECRETARY

It shall be the duty of the Secretary to act as Secretary at all meetings of the Board of Directors, and to cause the minutes of all such meetings to be kept; to see that all notices required to be given by the Corporation are duly given and served; to be custodian of the seal of the Corporation and to affix the seal, or cause it to be affixed, to all agreements, documents and other papers requiring the same. The Secretary shall perform such other duties as usually pertain to the office of Secretary or as are required by the Chairperson and/or by the Board of Directors.

Section 12. IMMEDIATE PAST CHAIRPERSON

The Chairperson shall upon completion of his or her term as Chairperson, become Immediate Past Chairperson for the duration of the elected term of his or her successor as

Chairperson. The Immediate Past Chairperson shall have such duties as are required by the Chairperson and/or Board of Directors.

ARTICLE V. COMMITTEES

Section 1. GOVERNANCE COMMITTEE

The Governance Committee shall consist of no fewer than five (5) members of the Corporation appointed each year by the Chairperson, acting with the advice and approval of the Board of Directors. At least three (3) members of the Governance Committee shall be members of the Board of Directors, one member shall be a member of the orchestra designated by the orchestra, and one member shall be a member of the Honorary Board. The Chairperson and President/CEO shall be *ex officio* members of the committee, without vote. The chairperson of such committee shall be a member of the Board of Directors. The Committee shall present a slate of Board nominees to the Annual Meeting and prepare a slate of Corporation and Honorary Board officer candidates to be voted on by the Board of Directors, annually, at their last scheduled meeting of each fiscal year to serve for the following fiscal year. When considered appropriate to facilitate a transition in leadership, the Committee may propose a Chairperson-Elect to be voted on by the Board of Directors at any scheduled meeting within the fiscal year. The Committee shall from time to time present the Board of Directors with nominees for election to the Honorary Board. The Governance Committee shall also be responsible for conducting an annual review of Board performance, policies and these By-laws.

Section 2. EXECUTIVE COMMITTEE

There shall be an Executive Committee, the members of which shall consist of the Officers of the Corporation as enumerated in Article IV, the chairpersons of the Board Governance, Finance, Education and Outreach, and Development Committees; the Chairperson of the Volunteer Services Committee; and one other member of the Board of Directors as the Chairperson shall appoint in collaboration with the President/CEO. The Chairperson or another member of the Executive Committee designated by the Chairperson shall chair the Executive Committee. When the Board of Directors is not in session, the Executive Committee shall have the power and authority of the Board, and particularly shall have charge of the activities of the Corporation and direct supervision over all its affairs and operations, except that the following actions are reserved to the Board of Directors:

- (a) The submission to members of any action requiring members' approval under the law.
- (b) The filling of vacancies in the Board or in the Governance Committee.
- (c) The amendment or repeal of the By-Laws, or the adoption of new By-Laws.
- (d) The amendment or repeal of any resolution of the Board which, by its terms, shall not be so amendable or repealable.

Any reference in these By-laws to the Board of Directors shall include the Executive Committee, unless it is expressly otherwise provided, or unless the context clearly indicates the contrary. Any action taken by the Executive Committee, and the minutes of its meetings shall be reported to the Board of Directors prior to or at the next regular meeting of the Board of Directors.

Section 3. COMMITTEES OF THE CORPORATION

The following shall be standing committees of the Corporation: Finance, Education and Outreach, Development and Volunteer Services. The charter of each such committee shall be determined by the Board of Directors. The chairperson of each such committee must be selected from the members of the Board. The chairperson of each committee shall be appointed annually by the Chairperson of the Board subject to approval of the Board, except the Chairperson of the Finance Committee who shall be the Treasurer of the Corporation.

Section 4. ADDITIONAL COMMITTEES

The Chairperson may designate and appoint additional committees, each of which shall have such authority as is provided in the charter of each such committee as prepared by the Chairperson designating the committee, except that such authority shall not exceed the authority conferred on the Executive Committee by Section 2 of this Article IV.

Section 5. MEETING

Meetings of committees shall be held at such time and place as shall be fixed by the Chairperson of the Board, the President, the chairperson of the committee or by vote of a majority of all members of the committee. Notice of committee meetings shall be given to each of the directors orally, by telephone, voice mail, fax machine, electronic mail or mail, and shall state the purpose, time and place of the meeting. If notice is given orally, in person, or by telephone, it shall be given not less than one (1) day before the meeting; if it is given by voice mail, fax machine, electronic mail, or by mail, it shall be given not less than three (3) days before the meeting.

Section 6. QUORUM AND MANNER OF ACTING

Unless otherwise provided by resolution of the Board of Directors, a majority of all of the members of a committee shall constitute a quorum for the transaction of business. Action by any committee shall be authorized by a majority of the votes cast at any meeting except that where the committee consists of five (5) or fewer members the vote of a majority of all of the members of the committee shall be the act of the committee. Any action to be taken by a committee shall mean such action to be taken at a meeting of the committee.

The procedures and manner of acting of the Executive Committee and of the committees of the Board shall be subject at all times to the directions and approval of the Board of Directors.

Section 7. TENURE OF MEMBERS OF COMMITTEES OF THE BOARD

Every member of each committee of the Board, except for the chairperson of the Executive Committee and the chairperson of the Finance Committee, shall serve at the pleasure

of the Chairperson. The chairperson of the Executive Committee and the chairperson of the Finance Committee shall serve at the pleasure of the Board of Directors.

Section 8. ALTERNATE MEMBERS

The Chairperson of the Board of Directors may designate one or more directors as alternate members of the Executive Committee, or of any other committee of the Board, who may replace any absent member or members at any meeting of such committee.

**ARTICLE VI.
HONORARY BOARD**

Section 1. PURPOSE

There shall be an Honorary Board, the purpose of which is to recognize, and to retain the active continuing involvement of, persons who have established a record of unusual or outstanding service or contribution to the Corporation, and whose leadership in cultural life and high qualities of character and personal reputation bring honor to the Corporation. The members shall be invited to attend all regular and special meetings of the Board of Directors of the Corporation, but except for their Chairperson shall not be entitled to vote at such meetings. The Board of Directors of the Corporation shall be at liberty to call upon the members of the Honorary Board, either individually or as a Board, for such advice, counsel or assistance as it may deem appropriate.

Section 2. MEMBERSHIP

Members of the Corporation to be considered for membership on the Honorary Board shall be proposed by the Governance Committee, in collaboration with the Honorary Board leadership, at a regular meeting of the Board of Directors and shall be voted upon by the Board of Directors at its next regular meeting, at which members will be elected by a majority vote of the Directors present. Membership shall be for an indefinite term conditioned, however, on continued membership in the Corporation. A member is entitled to resign at any time.

Section 3. OFFICERS, TERMS, GOVERNANCE

The Honorary Board shall have a Chairperson and may have one or more Vice-Chairpersons. Officers shall be members of the Honorary Board and shall be nominated by the Governance Committee and elected by the Board of Directors at the time, in the manner, for a term, and subject to the same provisions as apply to officers of the Corporation as set out in Article IV of the By-Laws. The normal service of the Chairperson shall be three successive one-year terms. The Honorary Board may adopt By-Laws for its governance, subject to revision by the Board of Directors.

**ARTICLE VII.
BOARD OF DIRECTORS OF THE ROCHESTER PHILHARMONIC
YOUTH ORCHESTRA**

Section 1. **PURPOSE**

To support the formal statement of goals of the Rochester Philharmonic Youth Orchestra (“RPYO”) by providing supervisory oversight and final approval of all RPYO activities. The RPYO board’s goals are that each young musician is provided with the finest musical experience possible and that the level of performance of the ensemble reaches its greatest potential. In addition, the RPYO board shall be responsible for engaging a conductor and other professional personnel (as deemed necessary) and evaluating their performance. The RPYO board shall have final powers in all areas except the expenditure of funds of the Corporation (if required) for maintenance of the RPYO and general matters relating to RPYO participation in the RPO, Inc. “family.” In both of these areas the RPYO board will advise the Corporation’s Board of Directors and be subject to its decisions.

Section 2. **MEMBERSHIP**

The chairperson of the Board of RPYO shall also be the chairperson of the Board of Directors’ Standing Committee on Education and Outreach. Additional required members shall include two members of the parents advisory committee, a musician from the Rochester Philharmonic Orchestra, a representative of the Monroe County Supervisors of Music, one other music education professional, and at least one community member with no children currently members of the RPYO. Additional members may be added as needed. *Ex officio* members shall be the RPYO conductor(s), and the President of the Corporation.

Section 3. **ORGANIZATION**

The Board of the RPYO shall organize itself and conduct itself in accordance with the By-laws approved by the Board of Directors of the Corporation.

**ARTICLE VIII.
FINANCES AND CONTRACTS**

Section 1. **FISCAL YEAR**

The fiscal year of the Corporation shall commence on September 1 in each calendar year and end on August 31 of the following year unless otherwise authorized by the Board of Directors.

Section 2. **LOANS**

No loans shall be contracted on behalf of the Corporation unless specifically authorized by the Board of Directors.

Section 3. CHECKS, DRAFTS, ETC.

All checks, drafts and other orders for the payment of money out of the funds of the Corporation, and all notes or other evidences of indebtedness of the Corporation, shall be signed on behalf of the Corporation in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 4. DEPOSITS

All funds and/or securities of the Corporation shall be promptly deposited to the credit of the Corporation in such banks, trust companies, or other depositories as the Board of Directors may select.

Section 5. EXECUTION OF CONTRACTS

The Board of Directors, except as in these By-Laws otherwise provided, may authorize any officer or officers, agent or agents, in the name of and on behalf of the Corporation to enter into any contract or execute and deliver any instrument, and such authority may be general or confined to specific instances; but, unless so authorized by the Board of Directors, or expressly authorized by these By-Laws, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable pecuniarily in any amount for any purpose.

Section 6. ASSIGNMENT AND TRANSFER OF STOCKS, BONDS AND OTHER SECURITIES

As prescribed by the Board of Directors any one or two of the following officers of the Corporation: the Chairperson, the President/CEO, the Treasurer, and/or the Secretary, shall have power to assign or to endorse for transfer, under the corporate seal, and to deliver, any stock, bonds, subscription rights, or other securities, or any beneficial interest therein, held or owned by the Corporation, according to a resolution of the Board of Directors.

**ARTICLE IX.
INDEMNIFICATION AND INSURANCE**

Section 1. AUTHORIZED INDEMNIFICATION

Unless clearly prohibited by law or Section 2 of this Article IX, the Corporation shall indemnify any person ("Indemnified Person") made, or threatened to be made, a party in any action or proceeding, whether civil, criminal, administrative, investigative or otherwise, including any action by or in the right of the Corporation, by reason of the fact that he or she (or his or her testator or intestate), whether before or after adoption of this Section, (a) is or was a Director or officer of the Corporation, or (b) in addition is serving or served, in any capacity, at the request of the Corporation, as a director or officer of any other corporation, or any partnership, joint venture, trust, employee benefit plan or other enterprise. The indemnification shall be against all judgments, fines, penalties, amounts paid in settlement (provided the Corporation shall have consented to such settlement) and reasonable expenses, including

attorneys' fees and costs of investigation, incurred by an Indemnified Person with respect to any such threatened or actual action or proceeding, and any appeal thereof.

Section 2. PROHIBITED INDEMNIFICATION

The Corporation shall not indemnify any person if a judgment or other final adjudication adverse to the Indemnified Person (or to the person whose actions are the basis for the action or proceeding) establishes, or the Board of Directors in good faith determines, that such person's acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled.

Section 3. ADVANCEMENT OF EXPENSES

Unless clearly prohibited by law or Section 2 of this Article IX, the Board of Directors may approve Corporation indemnification as set forth in Section 1 of this Article IX or advancement of expenses as set forth in Section 3 of this Article IX, to a person who (or whose testator or intestate) is or was employed by the Corporation or who is or was a volunteer for the Corporation, and who is made, or threatened to be made, a party in any action or proceeding, by reason of the fact of such employment or volunteer activity, including actions undertaken in connection with service at the request of the Corporation in any capacity for any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

The Corporation shall, on request of any Indemnified Person who is or may be entitled to be indemnified by the Corporation, pay or promptly reimburse the Indemnified Person's reasonably incurred expenses in connection with a threatened or actual action or proceeding prior to its final disposition. However, no such advancement of expenses shall be made unless the Indemnified Person makes a binding written commitment to repay the Corporation, with interest, for any amount advanced for which it is ultimately determined that he or she is not entitled to be indemnified under the law or Section 2 of this Article IX. An Indemnified Person shall cooperate in good faith with any request by the Corporation that common legal counsel be used by the parties to such action or proceeding who are similarly situated unless it would be inappropriate to do so because of actual or potential conflicts between the interests of the parties.

Section 4. DETERMINATION OF INDEMNIFICATION

Indemnification mandated by a final order of a court of competent jurisdiction will be paid. After termination or disposition of any actual or threatened action or proceeding against an Indemnified Person, if indemnification has not been ordered by a court the Board of Directors shall, upon written request by the Indemnified Person, determine whether and to what extent indemnification is permitted pursuant to these By-laws. Before indemnification can occur the Board of Directors must explicitly find that such indemnification will not violate the provisions of Section 2 of this Article IX. No director with a personal interest in the outcome, or who is a party to such actual or threatened action or proceeding concerning which indemnification is sought, shall participate in this determination. If a quorum of disinterested directors is not obtainable, the Board of Directors shall act only after receiving the opinion in writing of

independent legal counsel that indemnification is proper in the circumstances under then applicable law and these By-laws.

Section 5. BINDING EFFECT

Any person entitled to indemnification under these By-laws has a legally enforceable right to indemnification which cannot be abridged by amendment of these By-laws with respect to any event, action or omission occurring prior to the date of such amendment. In the event that any of the provisions of this Article IX is held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions of this Article X shall remain enforceable to the fullest extent permitted by law.

Section 6. INSURANCE

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

Section 7. NON-EXCLUSIVE RIGHTS

The provisions of this Article IX shall not limit or exclude any other rights to which any person may be entitled under law or contract. The Board of Directors is authorized to enter into agreements on behalf of the Corporation with any Director, officer, employee or volunteer providing them rights to indemnification or advancement of expenses in connection with potential indemnification in addition to the provisions therefore in this Article IX, subject in all cases to the limitations of Section 2 of this Article IX.

**ARTICLE X.
CONFLICTS OF INTEREST**

Section 1. DEFINITION OF CONFLICTS OF INTEREST

A conflict of interest will be deemed to exist whenever an individual is in the position to approve or influence Corporation policies or actions that involve or could ultimately harm or benefit financially: (a) the individual; (b) any member of his immediate family (spouse, parents, children, brothers or sisters, and spouses of these individuals); or (c) any organization in which he or an immediate family member is a director, trustee, officer, member, partner or more than 10% shareholder. Service on the board of another not-for-profit corporation does not constitute a conflict of interest.

Section 2. DISCLOSURE OF CONFLICTS OF INTEREST

A director or officer shall disclose a conflict of interest: (a) prior to voting on or otherwise discharging his duties with respect to any matter involving the conflict that comes

before the Board or any committee; (b) prior to entering into any contract or transaction involving the conflict; (c) as soon as possible after the director or officer learns of the conflict; and (d) on the annual conflict of interest disclosure form. The Secretary of the Corporation shall distribute annually to all directors and officers, a form soliciting the disclosure of all conflicts of interest, including specific information concerning the terms of any contract or transaction with the Corporation and whether the process for approval set forth in Section 3 of this Article X was used.

Section 3. APPROVAL OF CONFLICTS AND TRANSACTIONS INVOLVING POTENTIAL CONFLICTS OF INTEREST

A director or officer who has or learns about a potential conflict of interest should disclose promptly to the Secretary of the Corporation the material facts surrounding any actual or potential conflict of interest, including specific information concerning the terms of any contract or transaction with the Corporation. All effort should be made to disclose any such contract or transaction and have it approved by the Board before the arrangement is entered into.

Following receipt of information concerning a contract or transaction involving a potential conflict of interest, the Board shall consider the material facts concerning the proposed contract or transaction including the process by which the decision was made to recommend entering into the arrangement on the terms proposed. The Board shall approve only those contracts or transactions in which the terms are fair and reasonable to the Corporation and the arrangements are consistent with the best interests of the Corporation. Fairness includes, but is not limited to, the concepts that the Corporation should pay no more than fair market value for any goods or services that the Corporation receives and that the Corporation should receive fair market value consideration for any goods or services that it furnishes others. The Board shall set forth the basis for its decision with respect to approval of contracts or transactions involving conflicts of interest in the minutes of the meeting at which the decision is made, including the basis for determining that the consideration to be paid is fair to the Corporation.

Section 4. VALIDITY OF ACTIONS.

No contract or other transaction between the Corporation and one or more of its Directors or officers, or between the Corporation and any other corporation, firm, association or other entity in which one or more of its directors or officers are directors or officers, or have a substantial financial interest, shall be either void or voidable for this reason alone or by reason alone that such director or directors or officer or officers are present at the meeting of the Board of Directors, or of a committee thereof, which authorizes such contract or transaction, or that his or their votes are counted for such purpose, if the material facts as to such director's or officer's interest in such contract or transaction and as to any such common directorship, officership or financial interest are disclosed in good faith or known to the Board or committee, and the Board or committee authorizes such contract or transaction by a vote sufficient for such purpose without counting the vote or votes of such interested Director or officers. Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or committee which authorizes such contract or transaction. At the time of the discussion and decision concerning the authorization of such contract or transaction, the interested Director or officer should not be present at the meeting.

Section 5. EMPLOYEE CONFLICTS OF INTEREST.

An employee of the Corporation with a potential conflict of interest in a particular matter shall promptly and fully disclose the potential conflict to his supervisor. The employee shall thereafter refrain from participating in deliberations and discussion, as well as any decisions, relating to the matter and follow the direction of the supervisor as to how the Corporation decisions that are the subject of the conflict will be determined. The Chairperson shall be responsible for determining the proper way for the Corporation to handle Corporation decisions that involve unresolved employee conflicts of interest. In making such determinations, the Chairperson of the Board may consult with legal counsel.

The Chairperson shall report to the Board at least annually concerning employee conflicts of interest that have been disclosed and contracts and transactions involving employee conflicts which the Chairperson has approved.

**ARTICLE XI.
OFFICE AND BOOKS, INSPECTION**

Section 1. OFFICE

The office of the Corporation shall be at such place in the County of Monroe, State of New York, as the Board of Directors may determine.

Section 2. BOOKS AND RECORDS

There shall be kept at the office of the Corporation: (1) correct and complete books and records of account; (2) minutes of the proceedings of the members and the Board of Directors; (3) a current list of the directors and officers of the Corporation and their residence addresses; (4) a current list containing the names and addresses of all members; and (5) a copy of the Certificate of Incorporation and these By-Laws.

Section 3. INSPECTION OF BOOKS AND RECORDS

(a) Any member of record of the Corporation shall have, within a reasonable time, the right to examine in person or by agent or attorney, during usual business hours, the minutes of the proceedings of the meeting of the Corporation and the list of members of the Corporation and to make extracts therefrom or copies thereof at the request of member's expense.

(b) An inspection authorized by paragraph (a) may be denied to such member or other person upon the member's refusal to furnish to the Corporation an affidavit that such inspection is not desired and will not be used for a purpose that is in the interest of a business or object other than the business of the Corporation, and that the member has not within five (5) years given, sold or offered for sale any list or record of members of any domestic or foreign corporation or used such list for fund raising purposes, or aided or abetted, or accepted or offered to aid or abet, any person in procuring any such list or record of members for such purpose.

**ARTICLE XII.
GENERAL**

Section 1. FORM OF SEAL

The seal of the Corporation shall be circular in form with the words "Rochester Philharmonic Orchestra, Inc." in the outer circle and "Incorporated 1930" in the inner circle, and such seal as is impressed on the margin hereof is hereby adopted as the corporate seal of the Corporation.

Section 2. CONDUCT OF MEETINGS

Except as provided in the Certificate of Incorporation or these By-Laws, all meetings of the members, Board of Directors, committees of the Board of Directors, and of members, boards and committees of Corporation's affiliated associations shall be conducted in accordance with Robert's Rules of Order - Revised.

Section 3. GENDER AND NUMBER

All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, singular or plural as the identity of the person or persons may require.

Section 4. HEADINGS

Paragraph titles and captions contained in these By-Laws are inserted only as a convenience and for reference, and in no way define, limit or extend the intent of any provision hereof.

Section 5. DEFINITIONS

a. Corporation: The term Corporation for the purpose of these By-laws shall mean the Rochester Philharmonic Orchestra Inc., including its unincorporated and affiliated associations.

b. Orchestra: The term orchestra for the purposes of these By-laws shall mean the collective musicians of the ensemble known as the Rochester Philharmonic Orchestra, and shall not mean the Corporation of similar name.

c. Nomenclature: For the purpose of these By-laws, Chairperson, Vice Chairperson(s), President, Secretary and Treasurer, with capital first letter, shall mean officers of the Corporation. Officers of committees or affiliated groups shall be written in lower case letters.

**ARTICLE XIII.
AMENDMENTS**

Section 1. AMENDMENTS

The By-Laws may be amended, repealed, or adopted by a majority of members present in person, by proxy, or by ballot, and entitled to vote in the election of directors at any annual or special meeting of members, provided that notice of such proposed action has been incorporated in the notice of a special meeting pursuant to Section 11 of Article II, or in the notice of the Annual Meeting as provided in Section 2 below. The By-Laws of the Corporation may be amended, repealed, or adopted by the Board of Directors at a regular or special meeting where notice of such proposed action has been incorporated in the notice of the meeting provided that any change so made must be brought to the membership for ratification at the next annual or special meeting, and provided that any by-law changes adopted by the Board of Directors shall be reported to members by publication in the next regularly scheduled issue of the membership newsletter.

**Section 2. NOTICE OF PROPOSED AMENDMENT, REPEAL OR ADOPTION
OF BY-LAWS AT ANNUAL MEETING**

Notice of and a concise statement of any amendment, repeal, or adoption of By-Laws proposed to be presented to the Annual Meeting of members by the Board of Directors shall be included in the notice of such Annual Meeting. The Secretary, upon receipt of any proposed amendment, repeal, or adoption signed by twenty-five (25) members of the Corporation who are, at the time of receipt, qualified to vote in the election of directors, not later than four (4) weeks prior to such Annual Meeting, shall cause notice of and a concise statement of such proposed amendment, repeal or adoption to be included in the notice of the Annual Meeting.