

**THE ARC ALLIANCE FOUNDATION**  
**Formerly known as Marc Foundation**  
**Revised July 1, 2008**  
**Revised July 1, 2011**

**BYLAWS**

**ARTICLE I**

**GENERAL**

Section 1.1    Name.    The name of the corporation is The Arc Alliance Foundation (the "Foundation").

Section 1.2    Definitions.    As used in these bylaws, the terms "person with mental retardation" and "person with developmental disabilities" shall include all persons with mental retardation or a developmental disability, respectively, regardless of age, degree or type of mental retardation or developmental disability or whether such person resides in the community or in an institution.

Section 1.3    Vision.    The Foundation's vision is to assure that there are adequate resources for The Arc Alliance Children's Services and The Arc Alliance Advocacy Services to pursue their visions and fulfill their missions in support of persons with developmental disabilities. The Foundation will provide financial and technical assistance to support The Arc Alliance Children's Services and The Arc Alliance Advocacy Services in addressing the advocacy and services needs of persons with developmental disabilities and their families in Berks, Bucks and Montgomery County communities.

Section 1.4    Mission.    The Foundation is committed to securing resources necessary to generate the support and services that are needed by persons with developmental disabilities so that they can determine where and how they will live, work and play. Through its dedicated efforts, the Foundation seeks to ensure that the goals of The Arc Alliance Children's Services and The Arc Alliance Advocacy Services are attainable, beyond public contracts with governmental agencies. If adequate support for The Arc Alliance Children's Services and The Arc Alliance Advocacy Services is achieved, the Foundation will continue its development of resources to support other organizations that share its vision.

Section 1.5    Purposes.    The purposes of the Foundation are:

- 1.5.1    to solicit, manage, invest, reinvest and distribute funds for the accomplishment of the following purposes:

- (i) to promote the general welfare of persons with mental retardation and other developmental disabilities;
- (ii) to foster and support the development of public policy, increase public knowledge and facilitate improvements in the quality of life for persons with developmental disabilities and their families;
- (iii) to provide leadership in all areas of advocacy for and by persons with developmental disabilities;
- (iv) to provide assistance so that persons with developmental disabilities and their families are empowered to make decisions concerning their lives;
- (v) to help persons with developmental disabilities become self-advocates;
- (vi) to assure that the life experiences of persons with developmental disabilities are similar to those of persons without developmental disabilities;
- (vii) to strengthen the community's commitment to persons with developmental disabilities;
- (viii) to support and provide leadership and research for the prevention of developmental disabilities; and
- (ix) to be operated exclusively for the benefit of, and in connection with, The Arc Alliance Children's Services and The Arc Alliance Advocacy Services, tax-exempt corporations meeting the requirements of § 509(a)(1) and § 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986, as amended (the "Code"), all within the meaning of Section 509(a)(3) of the Code.

Section 1.6     No Political Action. No substantial part of the activities of the Foundation shall consist of carrying on propaganda, or otherwise attempting to influence legislation (except as may be permitted under Section 501(h) of the Code, or the corresponding provision of any subsequent Federal tax laws); nor shall the Foundation in any manner or to any extent participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 1.7     Nonprofit Status. The Foundation is a nonprofit, nonsectarian organization. No part of the net earnings of the Foundation shall inure to the benefit of or will be distributable to its directors, officers, or other private persons, except that the Foundation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the corporate purposes. The Foundation shall pursue a policy of nondiscrimination in all of its activities. Upon any dissolution of the Foundation, all properties of the Foundation shall be distributed to such organizations which serve persons with developmental disabilities and which qualify under Section 501(c)(3) of the Code, or any successor provision

thereto, including, without limitation, The Arc Alliance ("THE ARC"), The Arc Alliance Advocacy Services and The Arc Alliance Children's Services, as may be determined by the Board of Directors.

Section 1.8      Conflict of Interest.

1.8.1      No employee of THE ARC or the Foundation and no member of any such employee's immediate family (as hereinafter defined) shall serve as an officer or director of the Foundation. For purposes of these bylaws, a person shall be considered a member of the immediate family of another person if the first person is a spouse, parent, sibling or child of the second person, whether by birth, marriage or legal adoption. If an officer or director of the Foundation desires to apply for a full-time employment position with a THE ARC Organization, such officer or director must resign his or her position as an officer or director prior to such application.

1.8.2      No officer or director of the Foundation and no member of any committee of the Board of Directors of the Foundation shall participate in any way in any decision relating to his or her possible employment by the Foundation and, if any such person is employed by the Foundation, it shall be a condition to such employment that the person resign as an officer, director or member of any committee of the Board of Directors of the Foundation other than the Personnel Committee.

1.8.3      No employee, officer or director of the Foundation and no member of any committee of the Board of Directors of the Foundation shall vote on any matter in which he or she has a pecuniary business interest at any meeting of any committee of the Board of Directors of the Foundation.

Section 1.9      Corporation Office.

1.9.1      The Foundation shall have and continuously maintain in the Commonwealth of Pennsylvania a registered office at an address to be designated from time to time by the Board of Directors of THE ARC which may, but need not, be the same as its place of business.

1.9.2      The Foundation may also have offices at such other places as the Board of Directors of THE ARC may from time to time designate or the business of the Foundation may require.

## ARTICLE II

### MEMBERSHIP

Section 2.1 Members The Foundation shall have no members.

## ARTICLE III

### DIRECTORS

Section 3.1 Number and Qualifications. The number of directors shall be determined by the Board of Directors from time to time but shall not be less than 8 nor more than 40; provided, however, that (i) not less than three nor more than 40% of the directors of the Foundation shall be members of the Board of Directors of THE ARC, (ii) not less than three directors of the Foundation shall be members of the Board of Directors of The Arc Alliance Advocacy Services and (iii) not less than three directors of the Foundation shall be members of the Board of Directors of The Arc Alliance Children's Services. The directors shall be divided into two classes designated Cohort A and Cohort B and each class shall be as nearly equal in number as possible. The term of office of the initial Cohort A directors shall end as of the date of the first meeting of the Board of Directors of THE ARC following the 1999 THE ARC annual membership meeting; and the term of office of the initial Cohort B directors shall end as of date of the first meeting of the Board of Directors of THE ARC following the 2000 THE ARC annual membership meeting. At the date of the first meeting of the Board of Directors of THE ARC following the 1999 THE ARC annual membership meeting and the first meeting of the Board of Directors of THE ARC following each THE ARC annual membership meeting thereafter, that number of directors whose terms shall then expire shall be elected by the Board of Directors of THE ARC for a term of two years and until his or her successor has been elected and qualified or until his or her earlier death, resignation or removal, such that approximately one-half of the directors shall be elected each year. A decrease in the number of directors shall not have the effect of shortening the term of any incumbent director. Each director shall be a natural person of the age 18 or older and need not be a resident of the Commonwealth of Pennsylvania. The President shall preside at all meetings of the directors.

Section 3.2 Nomination of Directors. The Nominating Committee shall, in advance of each annual election of directors, submit for approval of the Board of Directors of THE ARC a slate of nominees for election as directors of the Foundation, with the number of nominees to be equal to the number of directors whose terms shall expire at such meeting. After considering the recommendation of the Nominating Committee, the Board of Directors of THE ARC shall have final authority to determine the identity of its nominees for election as directors of the Foundation at the next annual meeting. Prior to submission of a slate of nominees to the Board of Directors of the Foundation, the Nominating Committee shall obtain the consent of each person to be nominated.

Section 3.3 Election of Directors. Directors shall be elected by the Board of Directors of THE ARC.

Section 3.4 Removal of Directors. The entire Board of Directors of the Foundation, or any individual director may be removed from office without assigning any cause by the Board of Directors of THE ARC. If any directors are so removed, new directors may be appointed by the Board of Directors of THE ARC. The Board of Directors of the Foundation shall declare vacant the office of a director who has not attended more than 50% of the meetings of the Board of Directors in any twelve month period. The Board of Directors may declare vacant the office of a director who has been judicially declared of unsound mind or who has been convicted of a felony, or if within sixty days after notice of his or her election, the director does not accept such office either in writing or by attending a meeting of the Board of Directors, and fulfill such other requirements of qualification as these Bylaws may specify.

Section 3.5 Vacancies. Vacancies on the Board of Directors, including vacancies resulting from an increase in the number of directors or resignation, shall be filled by the Board of Directors of THE ARC.

Section 3.6 Power and Authority. The business and affairs of the Foundation shall be managed by the Board of Directors. Except as provided by Section 8.1, the Board of Directors may exercise all such powers of the Foundation and do all such lawful acts and things as are directed or required to be exercised and done by statute, the Articles of Incorporation or these Bylaws; provided, however, that the Board of Directors may not engage directly or indirectly in any activity, that would invalidate the Foundation's status (1) as an organization of the type described in Section 501(c)(3) of the Code, or in the corresponding provision of any subsequent law or (2) as a corporation to which contributions are deductible under Section 170(c)(2) of the Code, or under the corresponding provision of any subsequent law.

Section 3.7 Committees.

3.7.1 The Foundation may establish such standing and ad hoc committees as the Board of Directors may deem advisable in the administration and conduct of the affairs of the Foundation. Such committees of the Board of Directors of the Foundation shall meet as necessary to accomplish their goals. The Board of Directors of the Foundation is authorized in its discretion to approve reimbursement for travel and actual expenses necessarily incurred by members of committees in attending committee meetings and in performing other official duties as such. Except as otherwise provided in the Bylaws or in the resolution creating the applicable committee, committee chairpersons shall be appointed annually by the Board of Directors of the Foundation and may be reappointed to a committee for an unlimited number of terms. Except as otherwise provided in the Bylaws or in the resolution creating the applicable committee; committee members shall be appointed by the committee chairpersons annually, subject to approval by the President of the Foundation, and may be reappointed to a committee for an unlimited number of terms. Except as otherwise provided herein, persons who are not directors are eligible to serve as committee members.

Any person authorized by these Bylaws to appoint the chairperson and/or members of any committee may appoint himself or herself as chairperson and/or member. The chairperson of each committee shall determine the date and place of all committee meetings. Each committee may adopt its own rules of procedure not inconsistent with these Bylaws. No such committee shall have any power or authority as to the following:

- (i) Action on matters for which THE ARC has exclusive rights and powers;
- (ii) The amendment or repeal of any resolution of the Board of Directors; and
- (iii) Action on matters committed by the Bylaws or a resolution of the Board of Directors of the Foundation to any committee of the Board of Directors.

3.7.2 The Foundation shall have the following standing committees: Executive, Finance, Nomination and Personnel.

3.7.3 Executive Committee. The Executive Committee shall have the power and authority of the Board of Directors to transact all business of the Foundation in the intervals between meetings of the Board of Directors. Members of the Executive Committee shall be appointed by the Board of Directors. The officers of the Foundation shall be ex officio members of the Executive Committee. Only persons serving as directors of the Foundation may serve on the Executive Committee.

3.7.4 Finance Committee.

- (i) Number, Selection and Tenure. The Finance Committee shall be composed of nine members appointed as follows: (a) the President of each of the Foundation, THE ARC, The Arc Alliance Advocacy Services and The Arc Alliance Children's Services shall each appoint two members, at least one of whom is a member of that organization's Board of Directors and (b) the President of THE ARC shall appoint the chairperson. Subject to earlier termination by death, resignation or removal, each member of this Finance Committee shall remain on the committee until his/her successor is appointed and approved.
- (ii) Purpose and Functions. The Finance Committee shall:
  - (a) review and recommend to the Board of Directors the annual capital and operating budgets of the Foundation;

- (b) perform audit functions, including but not limited to the following: selecting an independent auditor, reviewing the results of the audit with staff and the auditor; reviewing the Foundation's internal controls and procedures with the auditor; and recommending to the Board of Directors the appropriate action related to any or all of the above; and
  - (c) make recommendations to the Board of Directors concerning the handling of the fiscal affairs of the Foundation, and perform such other duties related to the fiscal matters as may be assigned to it by the Board of Directors from time to time.
- (iii) Meetings. The Finance Committee shall meet at the discretion of the chairperson of the Finance Committee, but at least quarterly. A quorum for conducting business at a meeting of the Finance Committee shall be no fewer than five (5) voting members.

#### 3.7.5 Personnel Committee.

- (i) Number, Selection and Tenure. The Personnel Committee shall be composed of nine members appointed as follows: (a) the boards of directors of each of the President of the Foundation, THE ARC, The Arc Alliance Advocacy Services and The Arc Alliance Children's Services shall each appoint two members, at least one of whom is a member of that organization's Board of Directors and (b) the President of THE ARC shall appoint the chairperson. Subject to earlier termination by death, resignation, or removal, each member of this Personnel Committee shall remain on the committee until his/her successor is appointed and approved.
- (ii) Purpose and Functions. The Personnel Committee shall establish policies relating to the employment of staff and such employees' benefits, holidays and vacations and perform such other duties related to the Foundation's personnel matters as may be assigned to it by the Board of Directors from time to time.
- (iii) Meetings. The Personnel Committee shall meet at the discretion of the chairperson of the committee, but at least quarterly. A quorum for conducting business at a meeting of the Personnel Committee shall be no fewer than five voting members.

#### 3.7.6 Nominating Committee.

- (i) Number, Selection and Tenure. The Nominating Committee shall be composed of ten (10) members as follows: (a) no later than July 15 of each year, the Board of Directors of THE ARC, The Arc Alliance Foundation, The Arc Alliance Advocacy Services and The Arc Alliance Children's Services shall each appoint two (2) persons to serve as members, at least one of whom is a member of that organization's Board of Directors; (b) the President of THE ARC that is incumbent from time to time; and (c) the chairperson of the committee shall be the Immediate Past President of THE ARC. Subject to earlier termination by death, resignation or removal, each member of this Committee shall remain on the committee until his/her successor is appointed and approved.
- (ii) Purpose. The Nominating Committee shall prepare slates for officers for the Foundation in accordance with Section 4.2 of these Bylaws. Each slate shall contain at least one nomination for each vacancy to be filled. In preparing the slate, the Nominating Committee shall consider County-wide representation.
- (iii) Meetings. The Nominating Committee shall meet at the discretion of the chairperson of the committee, as necessary to prepare appropriate slates. A quorum for conducting business at a meeting of the Nominating Committee shall be no fewer than five (5) voting members.

### Section 3.8 Meetings.

3.8.1 A meeting of the Board of Directors may be held immediately following the annual meeting of members of THE ARC without the necessity of notice to the directors. Written notice of each meeting, other than a special meeting of the Board of Directors, stating the place and time of such meeting, shall be provided to each director, in accordance with the provisions of Article X of these Bylaws at least five days prior to the day named for the meeting.

3.8.2 Meetings of the Board of Directors shall be held at such times and places within or without the Commonwealth of Pennsylvania as the Board of Directors may from time to time appoint or as may be designated in the notice of the meeting. One or more directors may participate in any meeting of the Board of Directors, or of any committee thereof, by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear one another. Participation in a meeting by such means shall constitute presence in person at the meeting.

3.8.3 Special meetings of the Board of Directors may be called by the President of the Foundation or the President of THE ARC on one day's notice to each director, either by

telephone, or if in writing, in accordance with the provisions of Article X of these Bylaws. Special meetings shall be called by the President or Secretary in like manner and on like notice upon the written request of a majority of the directors in office.

3.8.4 At all meetings of the Board of Directors a majority of the directors in office shall constitute a quorum for the transaction of business, and the acts of a majority of the directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors, except as may be otherwise specifically provided by statute or by the Articles of Incorporation or by these Bylaws.

Section 3.9 Action by Written Consent. Any action required or permitted to be taken at a meeting of the Board of Directors of the Foundation may be taken without a meeting if a written consent or consents setting forth the action so taken signed by all of the directors in office is filed with the Secretary of the Foundation.

Section 3.10 Limitation of Liability of Directors.

3.10.1 A director of the Foundation shall stand in a fiduciary relation to the Foundation and shall perform his or her duties as a director, including his or her duties as a member of any committee of the Board of Directors upon which he or she may serve, in good faith, in a manner he or she reasonably believes to be in the best interests of the Foundation, and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his or her duties, a director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following: (a) one or more officers or employees of the Foundation whom the director reasonably believes to be reliable and competent in the matters presented; (b) legal counsel, public accountants or other persons as to matters which the director reasonably believes to be within the professional or expert competence of such persons; or (c) a committee of the Board of Directors upon which he or she does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the director reasonably believes to merit confidence. A director shall not be considered to be acting in good faith if he or she has knowledge concerning the matter in question that would cause his or her reliance to be unwarranted.

3.10.2 In discharging the duties of their respective positions, the Board of Directors, committees of the Board of Directors and individual directors may, in considering the best interests of the Foundation, consider the effects of any action upon employees, suppliers and customers of the Foundation and communities in which offices or other establishments of the Foundation are located, and all other pertinent factors. The consideration of these factors shall not constitute a violation of Section 3.10.1 hereof.

3.10.3 Absent breach of fiduciary duty, lack of good faith or self-dealing, actions taken as a director or any failure to take any action shall be presumed to be in the best interests of the Foundation.

3.10.4 A director of the Foundation shall not be personally liable, as such, for monetary damages for any action taken, or any failure to take any action, unless: (a) the director has breached or failed to perform the duties of his or her office under Sections 3.10.1 through 3.10.3 hereof and (b) the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

3.10.5 The provisions of Section 3.10.4 hereof shall not apply to: (a) the responsibility or liability of a director pursuant to any criminal statute; or (b) the liability of a director for the payment of taxes pursuant to local, state or federal law.

3.10.6 The approval of the Board of Directors of THE ARC shall be required to amend, repeal or adopt any provision as part of these Bylaws that is inconsistent with the purpose or intent of Sections 3.10.1, 3.10.2, 3.10.3, 3.10.4, 3.10.5 or 3.10.6 of this Section 3.10, and, if any such action shall be taken, it shall become effective only on a prospective basis from and after the date of such member approval.

Section 3.11     Director Conflict of Interest.

3.11.1 Identification. An actual or potential conflict of interest arises with respect to a Director when any of the following circumstances exists or is threatened:

- (i) a proposed transaction under consideration by the Board, or any ongoing business relationship, involves a Contracting Entity with respect to which there is an Interested Director; and
- (ii) an opportunity within the scope of activities of the Foundation could be exploited by the Director, the Director's Family Member or a Contracting Entity with respect to which there is an Interested Director.

3.11.2 Procedure for Determining Whether a Conflict Exists.

- (i) Disclosure Statements. Each Director shall complete an annual Conflict of Interest Disclosure Statement, describing any connections of the Director or the Director's Family Member with a Competing Entity or a Contracting Entity. It is his or her duty to make a full, frank and fair disclosure of the circumstances giving rise to an actual or potential conflict of interest. Each Director is also obligated to file a supplementary Disclosure Statement if, during the year, there is any

change in circumstances that alters or makes incomplete the information provided in the original Disclosure Statement. It shall be the responsibility of the President to review each of the Disclosure Statements and bring any perceived conflicts of interest to the attention of the Board of Directors.

- (ii) Additional Disclosure. If, during the course of a meeting of the Board of Directors, a Director is aware that he or she has or may have an actual or a potential conflict of interest in a matter under discussion, the Director shall immediately disclose the material facts about his or her interest in the matter to the Board of Directors. If, during the course of a meeting, the President or any Director believes that another Director has or may have an actual or potential conflict of interest in a matter under discussion, such person shall immediately make such concern known to the Board of Directors.
- (iii) Analysis of Conflict Issue. The determination of whether there is a conflict of interest in any particular circumstances shall be made by the President. In the event that the question involves the President, the Senior Vice President or ranking officer present shall make the decision regarding whether a conflict of interest exists. The review shall be subject to the following process:
  - (1) Questioning of the Involved Director. It is the Involved Director's duty to respond fully and frankly to any questions from the President or other Directors relating to the actual or potential conflict of interest.
  - (2) Exclusion of the Involved Director. At the President's direction, or upon motion and majority vote of the other Directors present (excluding the Involved Director), the Involved Director shall leave the Board meeting while the question of whether a conflict exists is discussed and, if a conflict is determined to exist, the Involved Director shall leave the Board meeting while the substantive issue which is the subject of the conflict is discussed and shall not vote on said substantive matter.
- (iv) Minutes. The minutes shall reflect (i) the disclosure of any alleged conflict; (ii) the determination as to whether an actual or potential conflict of interest exists; (iii) whether the Involved Director was excluded from the Board's deliberations on the conflict issue and/or

the substantive issue; (iv) any abstention from voting; and (v) any action to be taken.

3.11.3 Definitions.

- (i) Contracting Entity. Any entity engaged in the delivery of products or services (e.g., legal, accounting, management, and billing and recordkeeping services) to or under contract with the Foundation.
- (ii) Interested Director. A Director who, or whose spouse or other family member residing in the same home ("Family Member"), (i) is an officer, director, employee or agent of a Contracting Entity or (ii) is the actual or beneficial owner of at least 5% of the outstanding stock or other ownership interest in a Contracting Entity.
- (iii) Involved Director. A Director who is implicated in an actual or potential conflict of interest.
- (iv) Protected Information. Any information about the Foundation which is acquired by a Director by virtue of being a Director, including without limitation, information concerning the provision of services, finances, and institutional planning.

Article IV

OFFICERS

Section 4.1 Designation. The Foundation shall have a President, a Senior Vice President, a Secretary and a Treasurer, or persons who shall act as such, regardless of the name or title by which they may be designated, elected or appointed and may have such other officers and assistant officers as the Board of Directors of the Foundation may authorize from time to time. The President, Senior Vice President and Secretary shall be natural persons of the age 18 years or older. The Treasurer may be a corporation, but if a natural person shall be of the age 18 years or older. It shall be necessary for the officers to be directors. Any number of offices may be held by the same person.

Section 4.2 Nomination of Officers. The Nominating Committee shall, in advance of each annual election of officers, submit for approval of the Board of Directors a slate of nominees for election as officers of the Foundation. The Nominating Committee shall consider nominations submitted by any member of THE ARC. Prior to submission of a slate of nominees to the Board of Directors of the Foundation, the Nominating Committee shall obtain the consent of each person to be nominated.

Section 4.3 Election. The officers shall be elected by the Board of Directors of the Foundation. Each officer shall hold office for a term of one year and until his or her successor has been elected and qualified or until his or her earlier death, resignation or removal. No officer may be elected to or serve for more than two consecutive terms in the same office.

Section 4.4 Resignation and Removal. Any officer may resign at any time upon written notice to the President, or in the case of a resignation by the President, the Senior Vice President. The resignation shall be effective upon receipt thereof by the Foundation or at such subsequent time as may be specified in the notice of resignation. The Foundation may secure the fidelity of any or all of the officers by bond or otherwise. Any officer or agent of the Foundation may be removed by the Board of Directors of the Foundation whenever in its judgment the best interests of the Foundation will be served by such removal. The removal shall be without prejudice to the contract rights, if any, of any person so removed.

Section 4.5 Duties.

4.5.1 The President shall preside at all meetings of the Board of Directors and the Executive Committee. The President shall exercise general supervision of the affairs of the Foundation and shall see that such affairs are conducted in accordance with the Articles of Incorporation and Bylaws of the Foundation and pursuant to the directions of the Board of Directors. Unless otherwise provided by the Bylaws or a resolution of the Board of Directors, the President shall appoint the chairpersons of all committees of the Board of Directors. The President shall have the power to countersign all checks and vouchers on behalf of the Foundation, in which capacity the President shall share this duty with the Treasurer and shall have the authority to execute bonds, mortgages and other contracts requiring a seal, under the seal of the Foundation, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Foundation. The President shall prepare a report of the operations of the Foundation at the completion of his or her term of office and will present it to the Board of Directors. The Board of Directors reserves the right to assign duties to the Executive Director of the Foundation.

4.5.2 The Vice President or, if more than one, the Vice Presidents in the order, if any, established by the Board of Directors shall, in the absence or incapacity of the President, have the authority to exercise all the powers and perform the duties of the President. The Vice Presidents, respectively, shall also have such other authority and perform such other duties as may be provided in these Bylaws or as shall be determined by the Board of Directors of the Foundation or the President. Any Vice President may, in the discretion of the Board of Directors of the Foundation, be designated as "executive," "senior" or by departmental or functional classification.

4.5.3 The Secretary shall attend all meetings of the Board of Directors of the Foundation and keep accurate records thereof in one or more minute books kept for that purpose and

shall perform the duties customarily performed by the secretary of a corporation and such other duties as may be assigned to him or her by the Board of Directors of the Foundation or the President.

4.5.4 The Treasurer shall be responsible for the custody of the corporate funds and securities; shall be responsible for full and accurate accounts of receipts and disbursements in books belonging to the Foundation; and shall perform such other duties as may be assigned to him or her by the Board of Directors of the Foundation or the President. The Treasurer shall give bond in such sum and with such surety as the Board of Directors of the Foundation may from time to time direct.

4.5.5 Each assistant officer shall assist in the performance of the duties of the officer to whom he or she is assistant and shall perform such duties in the absence of the officer. He or she shall perform such additional duties as the Board of Directors of the Foundation, the President or the officer to whom he or she is assistant may from time to time assign him or her. Such officers may be given such functional titles as the Board of Directors of the Foundation shall from time to time determine.

Section 4.6 Vacancies. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors of the Foundation.

## ARTICLE V

### FINANCIAL MATTERS

Section 5.1 Fiscal Year. The fiscal year of the Foundation shall run from July 1 through June 30.

Section 5.2 Budget. The Board of Directors, subject to the approval of THE ARC, shall adopt a balanced budget for each fiscal year after receiving a recommendation from the Finance Committee. The Finance Committee shall use its best efforts to submit such a budget in a timely fashion to permit its adoption prior to the commencement of the fiscal year or as promptly as practicable after the commencement of such fiscal year.

Section 5.3 Audit. An audit of the financial statements of the Foundation shall be conducted each year by independent certified public accountants. A copy of the audited financial statements and the auditors report thereon shall be furnished to each director of the Foundation and THE ARC.

## ARTICLE VI

### AMENDMENTS

Section 6.1 Member Action. These Bylaws may be amended or repealed, and new Bylaws adopted, exclusively by the affirmative vote of the Board of Directors of THE ARC.

## ARTICLE VII

### INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS

Section 7.1 The Foundation shall indemnify any director or officer, and may indemnify any other employee or agent, who was or is a party to, or is threatened to be made a party to, or who is called as a witness in connection with, any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Foundation, by reason of the fact that he or she is or was a director, officer, employee or agent of the Foundation, or is or was serving at the request of the Foundation as a director, officer, employee or agent of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such action, suit or proceeding if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Foundation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

Section 7.2 The Foundation shall indemnify any director or officer, and may indemnify any other employee or agent, who was or is a party to, or is threatened to be made a party to, any threatened, pending or completed action or suit by or in the right of the Foundation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation or is or was serving at the request of the Foundation as a director, officer, employee or agent of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise against expenses, including attorneys' fees, actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Foundation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the Foundation unless and only to the extent that the court of common pleas of the county in which the registered office of the Foundation is located or the court in which such 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, such person is fairly and reasonably entitled to indemnity for such expenses which the court of common pleas or such other court shall deem proper.

Section 7.3 The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VII shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any Bylaw, agreement, vote of disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office. It is the policy of the Foundation that indemnification of, and advancement of expenses to, directors and officers of the Foundation shall be made to the fullest extent permitted by law. To this end, the provisions of this Article VII shall be deemed to have been amended for the benefit of directors and officers of the Foundation effective immediately upon any modification of the Nonprofit Corporation Law of 1988 ("NPCL") or any modification, or adoption of any other law that expands or enlarges the power or obligation of corporations organized under the NPCL to indemnify, or advance expenses to, directors and officers of corporations.

Section 7.4 The Foundation shall pay expenses incurred by an officer or director, and may pay expenses incurred by any other employee or agent, in defending an action, or proceeding referred to in this Article VII in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Foundation.

Section 7.5 The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VII shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent of the Foundation and shall inure to the benefit of the heirs, executors and administrators of such person.

Section 7.6 The Foundation shall have the authority to create a fund of any nature, which may, but need not be, under the control of a trustee, or otherwise secure or insure in any manner, its indemnification obligations, whether arising under these Bylaws or otherwise. This authority shall include, without limitation, the authority to: (i) deposit funds in trust or in escrow; (ii) establish any form of self-insurance; (iii) secure its indemnity obligation by grant of a security interest, mortgage or other lien on the assets of the Foundation; or (iv) establish a letter of credit, guaranty or surety arrangement for the benefit of such persons in connection with the anticipated indemnification or advancement of expenses contemplated by this Article VII. The provisions of this Article VII shall not be deemed to preclude the indemnification of, or advancement of expenses to, any person who is not specified in Section 7.1 or Section 7.2 of this Article VII but whom the Foundation has the power or obligation to indemnify, or to advance expenses for, under the provisions of the NPCL or otherwise. The authority granted by this Section 7.6 shall be exercised by the Board of Directors of the Foundation.

Section 7.7 The Foundation shall have the authority to enter into a separate indemnification agreement with any officer, director, employee or agent of the Foundation or any subsidiary providing for such indemnification of such person as the Board of Directors shall determine up to the fullest extent permitted by law.

Section 7.8 As soon as practicable after receipt by any person specified in Section 7.1 or Section 7.2 of this Article VII of notice of the commencement of any action, suit or proceeding specified in Section 7.1 or Section 7.2 of this Article VII, such person shall, if a claim with respect thereto may be made against the Foundation under Article VII of these Bylaws, notify the Foundation in writing of the commencement or threat thereof; however, the omission so to notify the Foundation shall not relieve the Foundation from any liability under Article VII of these Bylaws unless the Foundation shall have been prejudiced thereby or from any other liability which it may have to such person other than under Article VII of these Bylaws. With respect to any such action as to which such person notifies the Foundation of the commencement or threat thereof, the Foundation may participate therein at its own expense and, except as otherwise provided herein, to the extent that it desires, the Foundation, jointly with any other indemnifying party similarly notified, shall be entitled to assume the defense thereof, with counsel selected by the Foundation to the reasonable satisfaction of such person. After notice from the Foundation to such person of its election to assume the defense thereof, the Foundation shall not be liable to such person under Article VII of these Bylaws for any legal or other expenses subsequently incurred by such person in connection with the defense thereof other than as otherwise provided herein. Such person shall have the right to employ his or her own counsel in such action, but the fees and expenses of such counsel incurred after notice from the Foundation of its assumption of the defense thereof shall be at the expense of such person unless: (i) the employment of counsel by such person shall have been authorized by the Foundation; (ii) such person shall have reasonably concluded that there may be a conflict of interest between the Foundation and such person in the conduct of the defense of such proceeding; or (iii) the Foundation shall not in fact have employed counsel to assume the defense of such action. The Foundation shall not be entitled to assume the defense of any proceeding brought by or on behalf of the Foundation or as to which such person shall have reasonably concluded that there may be a conflict of interest. If indemnification under Article VII of these Bylaws or advancement of expenses are not paid or made by the Foundation, or on its behalf, within 90 days after a written claim for indemnification or a request for an advancement of expenses has been received by the Foundation, such person may, at any time thereafter, bring suit against the Foundation to recover the unpaid amount of the claim or the advancement of expenses. The right to indemnification and advancements of expenses provided hereunder shall be enforceable by such person in any court of competent jurisdiction. The burden of proving that indemnification is not appropriate shall be on the Foundation. Expenses reasonably incurred by such person in connection with successfully establishing the right to indemnification or advancement of expenses, in whole or in part, shall also be indemnified by the Foundation.

Section 7.9 The Foundation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Foundation, or is or was serving at the request of the Foundation as a director, officer, employee or agent of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Foundation would have the power to indemnify him or her against such liability under the provisions of this Article VII.

Section 7.10 The approval of the Board of Directors of THE ARC shall be required to amend, repeal or adopt any provision as part of these Bylaws which is inconsistent with the purpose or intent of this Article VII, and, if any such action shall be taken, it shall become effective only on a prospective basis from and after the date of such approval.

## Article VIII

### LIMITATION OF POWER

Section 8.1 Reserved Powers. THE ARC shall have the exclusive rights and powers to do each of the following:

- (i) to approve the Foundation's capital and operating budgets and amendments thereto;
- (ii) to approve any unbudgeted expenditure exceeding 10% of any line item in the Foundation's capital or operating budget;
- (iii) to approve, prior to effectiveness, any and all amendments to the Bylaws of the Foundation;
- (iv) to elect all directors and the President of the Foundation and to remove any director or officer at any time, from time to time, with or without cause;
- (v) to make all decisions with respect to the employment or termination of the Executive Director;
- (vi) to designate the corporate offices of the Foundation;
- (vii) to approve, prior to effectiveness, any amendment to the Articles of Incorporation of the Foundation;
- (viii) to approve any merger, consolidation, sale of assets, division, conversion or dissolution of the Foundation; or
- (ix) to approve any other action that would require the approval of the membership of a Pennsylvania nonprofit corporation that had members.

## ARTICLE IX

### ANNUAL REPORT

Section 9.1 The Treasurer and the President shall present annually to the Board of Directors a report showing in appropriate detail the following:

- (i) The assets and liabilities, including the trust funds, of the Foundation as of the end of the fiscal year immediately preceding the date of the report;
- (ii) The principal changes in assets and liabilities, including trust funds, during the year immediately preceding the date of the report;
- (iii) The revenue or receipts of the Foundation, both unrestricted and restricted to particular purposes, for the year immediately preceding the date of the report, including separate data with respect to each trust fund held by or for the Foundation;
- (iv) The expenses or disbursements of the Foundation, for both general and restricted purposes, during the year immediately preceding the date of the report, including separate data with respect to each trust fund held by or for the Foundation.

Section 9.2 The annual report of the Treasurer shall be filed with the minutes of the meetings of the Board of Directors of the Foundation.

## ARTICLE X

### MANNER OF GIVING WRITTEN NOTICE; WAIVERS OF NOTICE

Section 10.1 Whenever written notice is required to be given to any person under the provisions of these Bylaws, it may be given to the person either personally or by sending a copy thereof by first class or express mail, postage prepaid, or by telegram (with messenger service specified), telex or TWX (with answerback received) or courier service, charges prepaid, or by facsimile transmission, to his or her address (or to his or her telex, TWX or facsimile number), supplied by each director to the Foundation for the purpose of the notice. If the notice is sent by mail, telegraph or courier service, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or with a telegraph office or courier service for delivery to that person or, in the case of telex or TWX, when dispatched.

Section 10.2 Any written notice required to be given to any person under the provisions of statute, the Foundation's Articles of Incorporation or these Bylaws may be waived in a writing signed by the person entitled to such notice whether before or after the time stated therein. Except as

otherwise required by statute, and except in the case of a special meeting, neither the business to be transacted at, nor the purpose of, a meeting need be specified in the waiver of notice. Attendance of a person at any meeting shall constitute a waiver of notice of such meeting, except where a person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting was not lawfully called or convened.