

BYLAWS
OF
THE TEXAS PERMANENT SCHOOL FUND CORPORATION

ARTICLE I.
Structure and Purpose

1.1. Structure. The Texas Permanent School Fund Corporation (the “*Corporation*”) is a special-purpose governmental corporation within the meaning of §43.052, Texas Education Code (“*TEC*”), and Subchapter A of Chapter 23, Texas Business Organizations Code (“*TBOC*”), and is an instrumentality of the State of Texas with all necessary and implied powers to accomplish its purpose. The Certificate of Formation of the Corporation, as amended from time to time (the “*Certificate of Formation*”), was filed in the office of the Secretary of the State of Texas on December 1, 2021.

1.2. Purpose. The Corporation is organized for the purpose of managing and investing, on behalf of the State Board of Education (“*SBOE*”), (a) the permanent school fund (as defined in Article VII of the Texas Constitution and more specifically in §43.001(a), TEC (“*PSF*”)) in accordance with the guidelines set forth in §5(f), Article VII, Texas Constitution, and (b) the charter district bond guarantee reserve fund in accordance with §45.0571, TEC. In addition, the Corporation may perform such other activities or functions that are necessary or appropriate to manage the investments in the foregoing sentence or to otherwise accomplish the purposes of the Corporation to the extent such activities or functions comply with applicable fiduciary duties and are not inconsistent with the Texas Constitution, Subchapter B of Chapter 43, TEC (“*Chapter 43*”), or other applicable law.

1.3. Governing Law. As a special-purpose governmental entity, except as otherwise provided by and to the extent consistent with Subchapter B of Chapter 43, the provisions of Title 1, TBOC (“*Title 1*”), and Chapter 22, TBOC (“*Chapter 22*”), apply to the Corporation. In the event of a conflict between either Title 1 or Chapter 22 and Chapter 43, in all cases Chapter 43 will control. The Corporation is subject to regulation and limitation only as provided by Subchapter B of Chapter 43 and as permitted by the Texas Constitution.

ARTICLE II.
Offices

2.1. Registered Agent and Office. The Corporation shall have and continuously maintain in the State of Texas a registered agent and office as required by the TBOC. The initial registered agent of the Corporation is as set forth in the Certificate of Formation. The registered agent and office may be changed by the Board of Directors of the Corporation (the “*Board*”) in accordance with applicable law.

2.2. Principal Place of Business. The principal place of business of the Corporation shall initially be located at 400 West 15th Street, Suite 1100, Austin, Texas 78701. The Corporation

may also have offices at such other places as the Board may determine or as the business of the Corporation may require.

2.3. Books and Records. All books and records maintained by the Corporation in the regular course of its business will be maintained at its principal place of business and in a form capable of being converted to written paper form within a reasonable time.

ARTICLE III. **Board of Directors**

3.1. Management by Board. Except as otherwise provided in the Certificate of Formation and these Bylaws and the powers reserved to the Member (as defined below), the property, business, and affairs of the Corporation shall be managed and controlled by the Board in accordance with these Bylaws, the Certificate of Formation, and applicable state law, in each case as amended from time to time.

3.2. Rules, Resolutions, and Policies. In addition to any rules, resolutions, and policies required under Subchapter B of Chapter 43, the Board may adopt rules, resolutions, and policies as the Board deems necessary or appropriate to manage the investments of the PSF or to otherwise accomplish the purposes of the Corporation.

3.3. Number and Term of Directors. The number of Directors on the Board, the method of their appointment, their required qualifications, and their terms of office shall be determined in accordance with §§43.053(a)-(e), TEC. The number of Directors may not be increased or decreased by amendment to the Certificate of Formation or these Bylaws.

(a) *Board Composition*. The Board will be composed of a total of nine (9) directors as provided in §43.053(a), TEC (each, a “**Director**”): (i) five (5) Directors appointed by the SBOE, pursuant to a process determined by the SBOE; (ii) the Commissioner of the General Land Office (the “**Commissioner**”); (iii) one (1) Director appointed by the Commissioner who has substantial background and expertise in investments and asset management, pursuant to a process determined by the Commissioner; and (iv) two (2) Directors appointed by the Governor of the State of Texas (the “**Governor**”), with the advice and consent of the Senate, each of whom must have substantial background and expertise in investments and asset management and may not be members of the SBOE or the School Land Board (“**SLB**”), pursuant to a process determined by the Governor.

(b) *Terms of Office*. In accordance with Chapter 43, the SBOE by rule shall establish the terms of the Directors appointed under Section 3.3(a)(i) above. The Directors appointed under Section 3.3(a)(iii) and (iv) above will serve staggered six-year terms, with the term of one (1) Director expiring on January 1 of each odd-numbered year. Each Director shall serve until the expiration of such Director’s term of office and until such Director’s successor has been chosen and qualified or until such Director’s earlier death, resignation, or removal as provided in these Bylaws.

3.4. Removal. The Board may not remove a Director.

3.5. Resignation. Any Director may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the Chair of the Board. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

3.6. Vacancies.

(a) Vacancies in the Board shall exist if a Director dies, resigns or is removed from office or a Director's term of office ends in accordance with applicable law. Any vacancy occurring in the office of a Director, whether by death, resignation, removal, or otherwise, shall be filled by the source of the Director's appointment, pursuant to a process determined by such party. A Director who is appointed to fill a vacancy (other than a vacancy caused by the expiration of a term) shall serve for the unexpired term of his or her predecessor in office.

(b) Notwithstanding the above, the Board may declare the office of a Director vacant in any of the following cases: (i) if the Director is adjudged incompetent by an order of court; or (ii) the Director's conviction of, or plea of guilty or no contest to, a felony, fraud, or a crime involving moral turpitude.

3.7. Meetings of Board. The Board may hold meetings at such place or places within the State of Texas as the Board may determine. The Board may hold a meeting by remote communications technology to the maximum extent permitted by applicable law. The Board shall meet at least three (3) times per year.

(a) *Texas Open Meetings Act.* The Corporation is a governmental body for purposes of Chapter 551, Texas Government Code ("***Texas Open Meetings Act***" or "***TOMA***"). Notwithstanding any provision of the TBOC to the contrary, the Board shall provide notice of and hold all meetings of the Board in accordance with the requirements of TOMA, subject to the exception provided in §43.060, TEC.

(b) *Regular Meetings.* Regular meetings of the Board ("***Regular Meetings***") shall be held at such times and places as shall be designated by the Board. Notice of Regular Meetings shall be required in accordance with TOMA.

(c) *Special Meetings.* Special meetings of the Board ("***Special Meetings***") shall be held at such times and places as shall be designated by the Chair. Notice of Special Meetings shall be required in accordance with TOMA.

(d) *Notice of Meetings and Agenda.* The chief executive officer of the Corporation (the "***CEO***") or Secretary of the Board shall ensure that notice of the time and place of each Regular and Special Meeting is provided to each Director by mail or electronic mail at least seven (7) days before such meeting; provided, however, that in the case of a Special Meeting called because of an emergency or urgent necessity, notice will be provided as required by the Texas Open Meetings Act. The Chair and CEO shall be

responsible for preparing the agenda for meetings of the Board and providing to each Director.

(e) *Quorum.* A majority of the Directors shall constitute a quorum of the Board, and such quorum may consider any matters pertaining to the Corporation's purposes at a called meeting of the Board. If at any meeting of the Board there is less than a quorum present, the Chair may adjourn the meeting. The affirmative vote of a majority of Directors present at a meeting at which a quorum is present is required for Board action, unless the act of a greater number is required by law, the Certificate of Formation, or these Bylaws. The attendance of a quorum of the Board at a meeting or committee meeting of the SBOE does not constitute a called meeting of the Corporation where business of the Corporation can be conducted.

(f) *Voting.* Each Director is entitled to one (1) vote on each matter submitted to a vote of the Directors. A Director must be present at a meeting to vote and may not vote by proxy.

(g) *Conduct of Business.* At meetings of the Board, any matter pertaining to the Corporation's purposes may be considered. At all meetings of the Board, the Chair shall preside, and in the absence of the Chair, the Vice Chair shall preside. In the absence of the Chair and the Vice Chair, a temporary Chair shall be chosen by the Board from among the Directors present. The Secretary shall act as secretary of all meetings of the Board, but in the absence of the Secretary, the Chair may appoint any person to act as secretary of the meeting. The Chair of any meeting of the Board shall determine the order of business and the general procedure at the meeting, including, without limitation, parliamentary procedure, conduct of the discussion and the order of business pursuant to a duly posted agenda.

(h) *Action Without a Meeting Prohibited.* No action required or permitted to be taken at a meeting of the Board or any committee thereof may be taken without holding a meeting in accordance with TOMA or an exception provided thereunder.

3.8. Compensation of Directors; Expenses. Directors shall not receive any salary or compensation for their service as Directors. A Director shall be entitled to reimbursement for reasonable expenses incurred by the Director in carrying out his or her duties as a Director.

3.9. Duties of the Board Under Chapter 43. The Board shall be responsible for performing the following duties on behalf of the Corporation as provided under Subchapter B, Chapter 43:

- (a) elect officers in accordance with Article V of these Bylaws;
- (b) determine the process for hiring and hire a CEO of the Corporation to manage and carry out the policies of the Corporation;
- (c) approve the internal auditor for the Corporation appointed by the CEO, if any, and coordinate with the internal auditor on any specified reports required by the Board;

(d) adopt an ethics policy that provides standards of conduct relating to the management and investment of the PSF in accordance with §43.0031(a), TEC, which must include provisions applicable to Directors, employees of the Corporation, and any person who provides services to the Corporation relating to the management or investment of the PSF and must define the types of relationships that may create a possible conflict of interest;

(e) develop written investment objectives concerning the investment of the PSF and employ a well-recognized performance measurement service to evaluate and analyze the investment results of the PSF;

(f) develop and establish rules for any distribution from the PSF to the available school fund (“*ASF*”) under §5(g), Article VII, Texas Constitution, in an amount not to exceed the limitation under that section, with such rules to include a minimum distribution rate as described in §43.066(b), TEC;

(g) not later than the date that the report required pursuant to Section 3.9(h) is submitted, approve a distribution from the PSF to the ASF, if any, that is determined in accordance with rules established pursuant to Section 3.9(f) above to be transferred during the subsequent state fiscal biennium;

(h) not later than November 1 of each even-numbered year, ensure that a report is submitted to the Texas Legislature, Comptroller, SBOE, and Legislative Budget Board that in detail specifically states the date any transfer will be made and the amount the Corporation will transfer during the subsequent state fiscal biennium from the PSF to the ASF;

(i) coordinate with the SBOE and the Texas Education Agency to determine the Corporation’s role in the operation and management of the bond guarantee program under Subchapter C, Chapter 45, TEC, to ensure the proper and efficient operation of the program, including the handling of any associated reimbursements, transfers, and disbursements;

(j) engage a certified public accountant or the state auditor to conduct an independent audit of the operations of the Corporation at least once per year and submit to the Legislative Budget Board an audit report regarding the operations of the Corporation; and

(k) ensure that an annual report is submitted to the SBOE and the General Land Office on the allocation of assets and investment performance of the portion of the PSF for which the Corporation is responsible.

ARTICLE IV.

Officers

4.1. Number and Titles. The officers of the Corporation shall consist of a president, which shall be referred to as the Chair of the Board (“*Chair*”), a Vice Chair of the Board (“*Vice Chair*”), a Secretary of the Board (“*Secretary*”), and such other officers as the Board may elect or

appoint. Such other officers shall have the authority and responsibility as may be assigned to them by the Board. Any two (2) or more offices may be held by the same individual, except the offices of Chair and Vice Chair and the offices of Chair and Secretary. The officers of the Board shall be members of the Board and will be elected by a majority vote of the Board.

4.2. Term of Office. Officers shall be elected at the first meeting of the Board following the SBOE's approval of the Corporation's initial bylaws and, thereafter, biennially at the first Regular Meeting of the Board of each odd-numbered calendar year. The term of office for each officer shall be until the first Regular Meeting of the succeeding calendar year at which officers are elected. In any event, a duly-elected officer shall serve in the office to which he or she is elected until his or her successor has been duly elected.

4.3. Removal. Any officer elected by the Board may be removed by a majority vote of the Board at any time.

4.4. Vacancies. Any vacancy occurring in any officer of the Board may be filled by a majority vote of the Board.

4.5. Powers and Duties of the Chair. The Chair shall preside at all meetings of the Board and shall have such other powers and duties as may be assigned to such officer in these Bylaws or by the Board.

4.6. Powers and Duties of the Vice Chair. The Vice Chair shall have such powers and duties as may be assigned to such officer in these Bylaws or by the Board and shall exercise the powers of the Chair during the Chair's absence or inability to act. Any action taken by the Vice Chair in the performance of the duties of the Chair shall be conclusive evidence of the absence or inability to act of the Chair at the time such action was taken.

4.7. Powers and Duties of the Secretary. The Secretary shall have such powers and duties assigned to such officer in these Bylaws or by the Board, including the responsibility to ensure that minutes of all meetings of the Board are kept by the Corporation, including a record of each vote taken.

4.8. Delegation of Powers and Duties to CEO.

(a) The Corporation shall employ a CEO to manage and carry out the policies of the Corporation. The CEO serves at the will of the Board.

(b) Subject to the oversight and direction of the Board, the CEO shall have:

- (i) general executive charge, management, and control of the assets, properties, business, and operations of the Corporation with all such powers as may be reasonably incident to such responsibilities;
- (ii) the responsibility for hiring and overseeing all employees of the Corporation in accordance with §43.055, TEC, and developing a system of compensation and annual performance evaluations for such employees;

- (iii) preparing and maintaining a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin;
- (iv) the authority to agree upon and execute all agreements, leases, contracts, evidences of indebtedness, and other obligations in the name of the Corporation; and
- (v) such other powers and duties as may be designated in these Bylaws and as may be assigned to the CEO by the Board.

4.9. Authority to Execute Agreements. The CEO may authorize any officer or officers, employees, or agent or agents of the Corporation, in addition to authorization provided by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances, including, without limitation, contracts for administrative and other services in furtherance of the purposes of the Corporation. Each individual who is given signatory authority by the CEO is authorized to execute individually, without the signature of the other individual(s).

ARTICLE V.

Committees

5.1. Board Committees. The Board or Chair may designate committees of the Board that shall have and may exercise such powers as designated by the Board or the Chair, as applicable. The Chair may appoint Directors to a committee, and any Director appointed to a committee shall cease to be a member of such committee when he or she is no longer serving as a Director. Any member of a committee may be removed by the Chair at any time. The designation of a committee and any delegation of authority thereto shall not operate to relieve the Board, or any Director, of any responsibility imposed by law.

5.2. Procedures; Meetings; Quorum. Any committee of the Board shall (a) have a chair designated by the Chair, (b) fix its own rules or procedures, (c) meet at such times and at such place or places as may be determined by the Chair of the committee, and (d) report to the Board at its next Regular or Special Meeting. At every meeting of any such committee, the presence of a majority of all the members thereof shall constitute a quorum, and the affirmative vote of a majority of the members present shall be necessary for the adoption by it of any action, unless otherwise expressly provided in the committee's rules or procedures, these Bylaws, or by the Board. The Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee.

ARTICLE VI.

Member

6.1. Membership. The SBOE shall be the sole member of the Corporation within the meaning of Chapter 22 of the TBOC (the "**Member**").

6.2. Powers Reserved to the Member. Notwithstanding any contrary provision in these Bylaws, the Board must obtain consent of the Member through official action of the SBOE in order to do any of the following:

- (a) Amend the Certificate of Formation;
- (b) Amend or repeal these Bylaws;
- (c) Terminate, liquidate and wind up the Corporation, including any voluntary decision to wind up the Corporation within the meaning of Chapter 11 of the TBOC; and
- (d) Do any act for which the consent of the Member is required by the TBOC.

6.3. Meetings. The Member must hold at least one (1) meeting per year, and such meeting is anticipated to held as a part of or in conjunction with a meeting of the SBOE. Notice stating the place, day and hour of each meeting of the Member shall be posted in accordance with TOMA.

ARTICLE VII.
Sovereign Immunity, Limited Liability, and Indemnification

7.1. Sovereign Immunity. The Corporation, the Board, and all Directors, officers and employees of the Corporation are entitled to sovereign immunity to the same extent as any other state agency or officer or employee of a state agency. No action taken by the Corporation, including the acceptance of benefits under a contract, may be construed to waive the Corporation's sovereign immunity, including immunity from suit or from liability.

7.2. Limited Liability. No Director shall be liable to the Corporation, other Directors, or third parties for monetary damages for an act or omission taken by the Director in his or her capacity as a Director, except to the extent the Director is found liable for an act or omission which is:

- (a) a breach of the Director's duty of loyalty to the Corporation or the PSF as finally adjudged following a Proceeding (as defined below);
- (b) an act or omission not in good faith that constitutes a breach of duty of the Director to the Corporation or the PSF or an act or omission that involves intentional misconduct or a knowing violation of the law, including, without limitation, a violation or breach of the Director's duties under the ethics policy adopted by the Corporation pursuant to §43.058, TEC;
- (c) a transaction from which the Director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the Director's duties; or
- (d) an act or omission for which the liability of a Director is expressly provided by an applicable statute.

If applicable law is amended to authorize action further eliminating or limiting the personal liability of directors, then this Article VII shall be deemed to incorporate by reference such amendments and the liability of a Director shall be eliminated or limited to the maximum extent permitted by such statutes or other law. Any repeal or amendment of such statutes or of the foregoing paragraph shall be prospective only and shall not adversely affect any right of protection of a Director existing at the time of such repeal or amendment.

7.3. Indemnification of Directors, Officers, and Employees. The Corporation shall indemnify (which indemnification shall include, without limitation, advancing reasonable expenses) any person who is or was a Director or an officer, employee, or agent of the Corporation (or any person who is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise) to the fullest extent required or permitted by applicable law. The Board may develop policies relating to the indemnification provided under this Section 7.3

(a) *Right to Indemnification.* Subject to any limitations and conditions in these Bylaws, including, without limitation, this Article VII, each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative or investigative (a “**Proceeding**”), or any appeal of such a Proceeding or any inquiry or investigation that could lead to a Proceeding, by reason of the fact that such person or a person of whom he or she is the legal representative, is or was a Director, officer or employee of the Corporation, or while a Director, officer or employee of the Corporation is or was serving at the request of the Corporation as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise, shall be indemnified by the Corporation to the fullest extent authorized by the TBOC, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment), against judgments, penalties (including excise and similar taxes), fines, settlements and reasonable expenses (including, without limitation, attorneys’ fees) actually incurred by such person in connection with a Proceeding, but if the Proceeding was brought by or on behalf of the Corporation, the indemnification is limited to reasonable expenses actually incurred or suffered by such person in connection therewith, and indemnification under these Bylaws shall continue as to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder. In no case, however, shall the Corporation indemnify any person, or the legal representatives of any person, with respect to any matters as to which such person shall be finally adjudged in any such Proceeding to be liable on the basis that personal benefit resulted from an action taken in such person’s official capacity, or in which such person is found liable to the Corporation. Any person entitled to indemnification pursuant to this Article VII is sometimes referred to herein as an “**Indemnified Person.**”

(b) *Advance Payment.* An Indemnified Person’s right to indemnification conferred in this Article VII may, in the sole discretion of the Board, include the right to be paid or reimbursed by the Corporation the reasonable expenses incurred by an

Indemnified Person who was, is or is threatened to be made a named defendant or respondent in a Proceeding in advance of the final disposition of the Proceeding; provided, however, that the payment of such expenses incurred by an Indemnified Person in advance of the final disposition of a Proceeding shall be made only upon delivery to the Corporation of a written affirmation by such Indemnified Person of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under this Article VII and a written undertaking by or on behalf of such Indemnified Person to repay all amounts so advanced if it shall ultimately be determined that such Indemnified Person is not entitled to be indemnified under this Article VII or otherwise.

(c) *Appearance as a Witness.* Notwithstanding any other provision of this Article VII, the Corporation may pay or reimburse expenses incurred by an Indemnified Person in connection with his or her appearance as a witness or other participation in a Proceeding at a time when the Indemnified Person is not a named defendant or respondent in the Proceeding.

(d) *Nonexclusivity of Rights.* The right to indemnification and the advancement and payment of expenses conferred in this Article VII shall not be exclusive of any other right which an Indemnified Person may have or hereafter acquire under any law (common or statutory), the Certificate of Formation, these Bylaws, or any agreement or vote of disinterested Directors or otherwise.

(e) *Savings Clause.* If this Article VII or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify and hold harmless each Indemnified Person as to costs, charges and expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative to the full extent permitted by any applicable portion of this Article VII that shall not have been invalidated and to the fullest extent permitted by applicable law.

7.4. Insurance. The Corporation may purchase or otherwise acquire insurance (1) to protect Directors and employees of the Corporation against any type of liability to third persons that might be incurred while conducting Corporation business and (2) to provide for all costs of defending a cause of action for such liability, including court costs and attorney's fees.

ARTICLE VIII.

Miscellaneous Provisions

8.1. Fiscal Year. The Corporation's fiscal year shall be as determined by the Board.

8.2. Notice and Waiver of Notice. Notices and requests to the Member, Directors, or officers shall be in writing and delivered personally or by e-mail, or mailed to the Member, Directors, or officers at their addresses appearing in the records of the Corporation. The deemed timing and receipt of a notice or request will be governed by the TBOC. A waiver of notice in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to notice.

8.3. Posting of Materials. The Board shall assure that current copies of the Corporation's Certificate of Formation and Bylaws, the Corporation's current annual report, the Corporation's policies, and minutes of meetings of the Corporation within the current and previous calendar year are posted on the Corporation's website.

8.4. Texas Public Information Act. The Board and the Corporation shall comply with applicable provisions of Chapter 552, Texas Government Code (the Texas Public Information Act).

8.5. Applicability of Certain Laws. In accordance with Subchapter B of Chapter 43, the Corporation is exempt from:

(a) Chapters 654 and 660, Government Code, and Subchapter K, Chapter 659, Government Code, as the Board has determined through passage of these Bylaws that an exemption from those provisions in their entirety is necessary for the Corporation to perform the Board's fiduciary duties under this subchapter;

(b) all state laws regulating or limiting purchasing by state agencies, including Subtitle D, Title 10, Government Code, and Chapters 2254, 2261, and 2262, Government Code;

(c) the franchise tax under Chapter 171, Tax Code;

(d) any filing costs or other fees imposed by the state on a corporation;

(e) Subchapter L, Chapter 441, Government Code regarding the record retention requirements imposed by the Texas State Library and Archives Commission;

(f) Subchapter C, Chapter 2260, Government Code regarding the resolution of certain contract claims against the State; and

(g) Chapters 2054 and 2055, Government Code regarding information technology and associated resources.

8.6. Amendment. These Bylaws may be amended or repealed by an affirmative vote of a majority of the entire Board subject to the approval of the SBOE.

8.7. Invalid Provisions. If any one or more of the provisions of these Bylaws, or the applicability of any provision to a specific situation, shall be held invalid or unenforceable, the provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of these Bylaws and all other applications of any provision shall not be affected thereby.

8.8. Conflict with Applicable Law or Certificate of Formation. These Bylaws are adopted subject to any applicable law and the Certificate of Formation. Whenever these Bylaws may conflict with any applicable law or the Certificate of Formation, such conflict shall be resolved in favor of such law or the Certificate of Formation.

8.9. Choice of Forum. Any “internal entity claims” shall be brought only in a court in the State of Texas. For these purposes, an “internal entity claim” means a claim of any nature, including a derivative claim in the right of an entity, that is based on, arises from, or relates to the internal affairs of the Corporation, as defined by Section 1.105, TBOC (i.e., the rights, powers, and duties of the Corporation’s governing authority, governing persons, officers, owners, and members and matters relating to the Corporation’s membership or ownership interests).