

BYLAWS

of the

Detroit Theater Organ Society

In effect as of May 1, 2007
With changes as of September 25, 2012

As accepted by Membership mail-in votes,
counted and reported at the
Annual Membership Meeting, April 26, 2007.

Transcribed and formatted by Gil Francis, Secretary, April 21, 2007

As accepted by Membership mail-in votes,
counted and reported at the
Membership/Board Meeting September 25, 2012

Transcribed and formatted by Gil Francis, Director, September, 25, 2012

DTOS

Detroit
Theater Organ
Society, Inc

A 501 (c3) non-profit organization

Owners and Operators of the
Senate Theater
6424 Michigan Avenue
Detroit, Michigan 48210

313-894-4100 and 313-894-0850

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TABLE OF CONTENTS

Article I Name

Article II Purpose

Article III Membership

Section 1	Eligibility
Section 2	Application Process
Section 3	Non-individual members
Section 4	Classes of Membership
	1. Associate
	2. Playing
	3. Sustaining
	4. Patton
	5. Benefactor
	6. Honorary
Section 5	Membership Upgrading
Section 6	Resignation of membership
Section 7	Forfeit of Membership
Section 8	Member expulsion

Article IV Membership Meetings

Section 1	Annual Meeting
Section 2	Special Meetings
Section 3	Meeting Date Publication
Section 4	New Business not on Agendas
Section 5	Absentee Voting
Section 6	Quorum

Article V Elections to the Board of Directors

Section 1	Board Members
Section 2	Suspension of Directors
Section 3	Length of Terms
Section 4	Nominations
Section 5	Eligibility and Voting
Section 6	Vacancies
Section 7	Start of Term

Article VI Board of Directors

Section 1	Business and Affairs
Section 2	Newly Elected Board Meeting
Section 3	Member Rules/Regulations
Section 4	Membership Dues Collection
Section 5	Use of Facility / Property's
Section 6	Approval of New Members
Section 7	Meeting Minutes
Section 8	Suspension of Members
Section 9	Regular Board Meetings
Section 10	Special Meetings
Section 11	Meeting Notification
Section 12	Meeting Quorum
Section 13	Board Member Compensation

Section 14	Financial Obligations
Section 15	Parliamentary Procedure

Article VII Officers

Section 1	Definition
Section 2	Elections & Term
Section 3	President
Section 4	Vice President
Section 5	Treasurer
Section 6	Secretary
Section 7	Compensation

Article VIII Committees

Section 1	Definitions
Section 2	Appointment
Section 3	Make-up of Committees
Section 4	Meetings
Section 5	Conference Calls
Section 6	Quorum
Section 7	Resignations, Removals, Vacancies
Section 8	Compensation
Section 9	Organ Trustee Committee

Article IX Amendments to the By-Laws

Section 1	Power to Alter
Section 2	Proposed Changes
Section 3	Voting of Proposed Changes
Section 4	Affirmative Vote

Article X Dissolution or Dilution

Section 1	Acquisition of Society
Section 2	First right of refusal
Section 3	Remaining Assets

Article XI Corporate Matters

Section 1	Corporate Documents
Section 2	Fiscal Year End

Article XII Indemnification

Section 1	Non-Derivative Actions
Section 2	Derivative Actions
Section 3	Expenses
Section 4	Limitation of Indemnity
Section 5	Determination of Indemnity
Section 6	Proportion
Section 7	Advances
Section 8	Non-Exclusivity
Section 9	Employee/Agent Indemnity
Section 10	Former Directors/Officers
Section 11	Insurance
Section 12	Changes to Michigan Law

ARTICLE I

Name

The name of this corporation is DETROIT THEATER ORGAN SOCIETY, INC., incorporated as a Michigan non-profit corporation under Act 327 of the Public Acts of 1931, as amended, being the Michigan General Corporation Act (hereinafter, the "Society").

ARTICLE II

Purposes

The Society shall be dedicated to the preservation, maintenance and playing of theater pipe organs in a proper setting, furnishing information about theater pipe organs, recording and playing back recordings of organ and other music, all for the benefit, education and enjoyment of its membership and the public; and, to promote the cultural and musical development of its membership and the public.

ARTICLE III

Membership

Section 1. Membership in the Society shall be open to persons of good moral character interested in listening to, working on or playing theater organ. No one shall be denied membership on the basis of religion, sex, creed, race, color, age, marital status, physical or mental disability, national origin or as otherwise prohibited by law. No person may be accepted into membership except upon a majority vote of the Board of Directors taken at a meeting of the Board of Directors in accordance with these by-laws.

Section 2. Application for membership shall be made to the Membership Committee established for this purpose. Investigation of an applicant shall be in accordance with directives prescribed by the Board of Directors from time to time.

Section 3. In the event that an application for membership is made by a person that is an entity and not an individual, such application shall specify an individual as designee member for the purposes of these by-laws.

Section 4. The Society shall have the following classes of membership:

1. Associate Members.

- (i) Associate Members and their spouses, plus the number of guests allowed by the Board of Directors from time to time, are entitled to attend all concerts of the Society, except those concerts designated as "Special" concerts and for which an admission is charged.
- (ii) Associate Members shall have no playing or recording privileges on the Society- owned Wurlitzer Pipe Organ, Opus 1953 (hereinafter referred to as the "organ").
- (iii) Associate Members shall have the privilege of attending and participating at meetings of the membership and voting privileges with respect to normal Society operations and in elections for Board of Directors. Associate Members are specifically excluded from participation in any vote involving changes in these by-laws, the sale of the organ, the dissolution of the Society, or in any vote involving the purchase or sale of any real estate.

2. Playing Members.

- (i) Playing Members shall, upon payment of the annual dues, be deemed to have purchased one share of the corporation to which is attached full voting rights hereunder.
- (ii) Shares of the corporation shall have no value, shall not be sold or traded, publicly or privately, by a Playing Member, and shall not be transferable except to immediate family members of an individual Playing Member, or the replacement designee of a non-individual member, and then only upon the approval of a majority vote of the Board of Directors.
- (iii) Upon resignation by a Playing Member from the Society for any reason, the share of the corporation held by such Playing Member shall be forfeited to the Society without the benefit of any refund or compensation.
- (iv) Playing Members are entitled to the use of the organ for a period of up to two (2) hours each month, in accordance with the rules and regulations promulgated by the Board of Directors from time to time.
- (v) Playing Members and their spouses, plus the number of guests allowed by the Board of Directors, from time to time, are entitled to attend all concerts of the Society, except those concerts designated as "Special" and for which an admission is charged.
- (vi) Playing Members may record all Society concerts, except those where recording privileges have been denied by the artist performing.

3. **Sustaining Members.** Members shall qualify for designation as a Sustaining Member in each successive year upon receipt by the Society of payment of annual dues in the amount established by the Board of Directors for such designation from time to time. Sustaining members shall be and have all of the rights and privileges of a Playing Member.

4. **Patron Members.** Members shall qualify for designation as a Patron Member in each successive year upon receipt by the Society of payment of annual dues in the amount established by the Board of Directors for such designation from time to time. Patron Members shall be and have all of the rights and privileges of a Playing Member.

5. **Benefactor Member.** Members shall qualify for designation as a Benefactor Member in each successive year upon receipt by the Society of payment of annual dues in the amount established by the Board of Directors for such designation from time to time. Benefactor Members shall be and have all the rights and privileges of a Playing Member.

6. **Honorary Member.** The Board of Directors may, in their discretion, bestow an honorary membership upon individuals whom they deem to have made exceptional or exemplary contributions to the theater organ art. Such honorary membership shall be and continue for the lifetime of the individual so honored. Honorary Members shall not have any voting rights and organ playing privileges may be granted under continuing supervision and upon such terms and conditions as may be established by the Board of Directors from time to time. Honorary Members may also be Playing Members or Associate Members of the Society upon payment of all dues and assessments levied on members of such class of membership.

Section 5. Associate Members may apply to increase their level of membership to that of Playing Member or higher, and upon approval of such application by the Board of Directors, by payment of the difference, if any, between the dues paid by such Associate Member and the dues applicable to such higher class for the year such application is made (and thereafter by annual payment of dues in the amount established for Playing Members by the Board of Directors from time to time). Such applications shall be considered and acted upon by the Board of Directors before consideration of any application to be a Playing Member from a non-member.

Section 6: Resignation by a member of any class of membership shall be presented in writing to the Board of Directors, provided that such resignation shall not relieve any member from liability for any dues accrued and unpaid at the time such resignation is received.

Section 7. A member may be expelled and forfeit membership in the Society for the following reasons:

1. Failure to meet the financial obligations required.
2. Violation of the Society's rules and regulations of such a character as to indicate to the Board of Directors, in their sole and unfettered discretion, that the member is unwilling or unable to conform his conduct to such rules and regulations.
3. Any misconduct of a member which reflects unfavorably upon or damages the reputation of the Society, its members or the purposes for which the Society is formed.

Before a member is expelled from the Society, the Board of Directors shall cause a notice, in writing, stating the grounds for such expulsion to be mailed to the affected member's latest address carried on the records of the Society at least fifteen (15) days prior to the meeting of the Board of Directors where such action is proposed to be taken. The affected member may appear at such meeting and respond to the grounds and charges at issue. If, at the meeting, the vote of the Board of Directors is adverse to the member, the member may demand that the question of expulsion be submitted at the next meeting of the membership. A majority of the votes cast at such meeting shall carry the question. Failure by the affected member to appear at either the applicable Board of Directors or membership meetings, or to process the appeal as required hereby shall conclusively determine the matter against the member without any further right of hearing or appeal.

ARTICLE IV **Membership Meetings**

Section 1. The annual meeting of the membership shall be in the city of Detroit, Michigan on the date of the December Board of Directors meeting which shall be on or about December 1 of each year; provided that if such day is a legal holiday, then the next day following is the designated day. If, for any reason, the annual meeting is not held as provided in these by-laws, the Board of Directors shall have the power to convene an annual meeting.

Section 2. Special meetings of the membership may be called by the President, by a majority of the Board of Directors or by a demand in writing signed by not less than ten percent (10%) of all Playing Members in good standing. The meeting call shall be delivered to the Secretary of the Society together with a detailed written agenda of the matters to be considered at said meeting. Upon receipt of such request, the Secretary shall, without delay, fix the date, time and location and prepare and mail a notice to all members containing details of the date, time, location and the agenda of such Special meeting.

Section 3. At least fifteen (15) and not more than sixty (60) days prior to the date fixed for the holding of any meeting of the membership, written notice of the time, place and purpose of such meeting shall be mailed to each member entitled to vote at such meeting. If mailed, such notice shall be directed to a member at the latest address carried on the records of the Society, and shall be deemed given three (3) days from the date duly delivered or deposited, with adequate postage thereon prepaid, to the custody of the United States Postal Service.

Section 4. New business, not listed on the agenda, may be introduced and considered at the annual and business meetings of the membership. Only the matters listed in the notice specified in Section 2 hereof may be considered at a Special meeting.

Section 5. Each member shall be entitled to one (1) vote in person and, except as specifically provided in these by-laws, no absentee voting shall be permitted and proxies shall not be recognized for any purpose.

Section 6: A quorum at any meeting of the membership shall be constituted by those present and entitled to vote; provided that, if less than ten percent (10%) of the membership entitled to vote is present at any such meeting, all questions other than routine procedure matters shall be submitted to all eligible voting members in good standing for absentee balloting. Ballots received within twenty (20) days after the mailing shall be counted. Those received after twenty (20) days will be considered void. Notwithstanding the foregoing, any matter deemed as routine procedure or otherwise not submitted for absentee vote hereunder, may, upon the majority vote of eligible voting members at the next membership meeting having more than ten percent (10%), be submitted for reconsideration and vote by any eligible voting member.

ARTICLE V

Elections to the Board of Directors

Section 1. The Board of Directors shall consist of up to thirteen (13) members elected from the Playing Members membership. Each director shall hold office for the term elected and until his successor is elected and qualified; provided that, a director may (i) be removed with or without cause by vote of a majority of the Board of Directors, or (ii) resign at any time by providing written notice to the Board of Directors to be effective on receipt or at a later time designated in the notice. A vacancy in any office for any reason may be filled by the Board of Directors until the next election of directors as provided by these by-laws.

Section 2. No Playing Member shall be eligible to be a director if not in good standing or having had committed a violation of these by-laws. In the case of a sitting director, such situation shall result in the automatic suspension of the member from the office of director until such time as such member returns to good standing, if possible, or is expelled in accordance with these by-laws.

Section 3. Directors shall serve for a term of two (2) years and no more than seven (7) directors shall be elected in any year. This section shall be suspended for the elections held in 2011 and 2012 only. Directors elected in those years shall serve a term of two (2) years and eight (8) months.

Section 4. In July of each year, the President, with the approval of the Board of Directors, shall appoint a committee of three (3) members (not directors) who shall nominate candidates to be directors. There shall be at least as many candidates nominated as there are positions to be filled on the Board of Directors. The committee shall present its recommendations to the Board of Directors no later than the October meeting of the Board of Directors. Further nominations may be accepted by the Board of Directors from the membership no later than the November Board of Directors meeting. The nominating committee shall have no other duties.

Section 5. At the annual meeting of the membership, any Playing Member, who has been a Playing Member in good standing continuously for a minimum period of three (3) full years, seeking to succeed a director whose term then expires shall be submitted as a candidate for election to the members entitled to vote. Voting shall be by secret ballot. Absentee balloting shall only be permitted under rules and regulations promulgated by the Board of Directors. The ballot shall contain provisions for write-in candidates; provided that any write-in candidate must meet the aforesaid qualifications for a person seeking to be elected to the Board of Directors.

Section 6: Vacancies on the Board of Directors shall forthwith be filled by appointment made by the remaining directors. Each person so appointed shall serve for the unexpired term of the director replaced and until his successor is elected and qualified.

Section 7: The term of office of a director shall begin upon the adjournment, sine die, of the annual meeting at which such director is elected.

ARTICLE VI **Board of Directors**

Section 1. The business and affairs of the Society shall be managed by the Board of Directors in accordance with the authority conferred by its statutory charter and these by-laws.

Section 2. Within twenty-one (21) days following the annual membership meeting, the immediate past president shall call a meeting of the new Board of Directors. The first order of business shall be the election of officers. The past president shall preside until a new president is elected.

Section 3. The Board of Directors shall establish and may, from time to time, modify, maximum limits on membership in each classification, in addition to the rules and regulations and dues and assessments applicable to each respective class of membership; provided, however, that no dues or assessments shall be levied upon the membership until the same is approved by majority vote of the membership at a meeting of the membership.

Section 4. The Board of Directors shall have the power to establish the method and means of collecting all dues and assessments and to provide means for enforcing the same and suspend members who are delinquent in the payment of such dues and/or assessments.

Section 5. The Board of Directors shall have full and exclusive authority to establish rules and regulations for the use and operation of all property and facilities of the Society and to provide means for enforcing the same and to fix penalties for their violation.

Section 6: The Board of Directors shall review and approve or reject all membership applications, including applications to a higher membership level and to approve and certify all new Society members or changes to the membership of existing members.

Section 7: The Board of Directors shall cause to be kept accurate minutes of all of its proceedings and exercise supervisory control of all moneys and real and personal property assets of the Society.

Section 8. The Board of Directors shall have the power to suspend any member for any act which, in the opinion of the Board of Directors, is likely to endanger the welfare, interest or character of the Society and may require that the suspended member appear before the Board of Directors to explain his or her actions. Any such suspension shall be effective until the next meeting of the Board of Directors, wherein the Board will take appropriate action under these by-laws.

Section 9. Meetings of the Board of Directors shall be held at such intervals and at such times and places as the Board of Directors determine. The next meeting of the Board of Directors that is not a "Special meeting" shall be determined at each preceding meeting prior to adjournment, or the Board of Directors may adjourn to the "Call of the Chair."

Section 10. Special meetings of the Board of Directors may be called by the president or any three (3) directors. The call shall state the day, time and place of such meeting and the matter or matters to be considered. Only matters stated in the call may be considered at any Special meeting, except that new matters may be added to the agenda by unanimous consent of all directors present.

Section 11. The Secretary shall be responsible for notifying directors of meetings and a director shall be deemed to be notified of any meeting if he or she has actual knowledge of the meeting at least forty-eight (48) hours in advance thereof. A director, before or after any meeting, may waive such notice in writing deposited with the Secretary who shall record the same in the minutes of such meeting.

Section 12. A majority of the directors, being seven (7) directors, shall constitute a quorum for the transaction of business at a Board of Directors meeting. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. If a quorum is not present, a majority of those present may adjourn the meeting from time to time until a quorum can be obtained.

Section 13. No director or officer shall receive a salary or compensation for the performance of his or her duties as director. Actual expenses incurred in the performance of director duties may be reimbursed at the discretion of the Board of Directors.

Section 14. The Board of Directors shall have no power to enter into any contract or obligate the Society in any manner beyond the funds available in the Society's treasury or, to enter into any contract or obligate the Society for the purchase or sale of any real estate, or for the sale of the organ, such power being reserved to the determination and vote of the Playing Members.

Section 15. The usual rules of parliamentary procedure shall govern all meetings. On appeals from a ruling of the chair, Robert's Rules of Order, latest edition, shall be determinative.

ARTICLE VII

Officers

Section 1. The officers of the Society shall consist of a President, Vice-President, Secretary and Treasurer and such other officers and assistant officers as may be deemed advisable or necessary by the Board of Directors from time to time. No person may hold more than one office in the Society in any given year.

Section 2. The officers of the Society shall be elected by and from the Board of Directors to serve at the pleasure of the Board of Directors; provided, however, that an election of officers shall be held at the meeting of the Board of Directors next following each annual meeting of the

membership. Each officer shall hold office for the term appointed and until a successor is appointed and qualified; provided that an officer may (i) be removed with or without cause by vote of a majority of the Board of Directors, or (ii) resign at any time by providing written notice to the Board of Directors to be effective on receipt or at a later time designated in the notice. A vacancy in any office for any reason may be filled by the Board of Directors until the next election of officers as provided by these by-laws.

The Board of Directors are further empowered to elect and appoint from the general membership in good standing, a Recording Secretary and an Assistant Treasurer, to serve under the direction of the Secretary and the Treasurer, respectively. Each officer shall have all of the powers of office as are delineated by law, these by-laws and the directives of the Board of Directors from time to time.

Section 3. The President shall be the executive officer of the Society and shall (i) preside at all meetings of the membership and the directors, (ii) conduct the general and active management of the business and affairs of the Society, (iii) have power to appoint or discharge employees, agents, or independent contractors, to determine their duties, and to fix their compensation, (iv) sign all corporate documents and agreements on behalf of the corporation, unless the president or the board instructs that the signing be done with or by some other officer, agent, or employee and, (v) see that all directives and resolutions of the Board of Directors are carried into effect. The President shall be an ex-officio member of all committees.

Section 4. The Vice-President shall assist the President in the discharge of his or her duties and, in his or her absence, officiate in his or her stead and perform such other duties as prescribed by the Board of Directors from time to time.

Section 5. The Treasurer shall (i) keep and maintain in books belonging to the Society, accurate and complete records of account, showing fully at all times the financial condition of the Society, (ii) be the legal custodian of all moneys, notes and other liquid assets which may from time to time come into the possession of the Society, (iii) prepare an annual financial report and present same at the annual membership meeting, (iv) collect, deposit and disburse the funds of the Society as ordered by the Board of Directors, (v) complete and timely submit all corporate filings required by law, (vi) furnish, when requested by the President or the Board of Directors, an accounting of transactions and/or deliver the said books of the Society for review and (vii) perform such other duties as the Board of Directors may prescribe from time to time. The Treasurer shall be a member of the Finance Committee.

Section 6. The Secretary shall (i) attend all meetings of the membership and of the Board of Directors and shall keep and maintain, or cause to be kept and maintained, a true and complete record of the proceedings of all such meetings, (ii) attend to the giving and serving of all notices required by law, these by-laws or resolutions of the Board of Directors, (iii) act as custodian of all corporate and membership records, and (iv) perform such other duties as the Board of Directors may prescribe from time to time.

Section 7. No director or officer shall receive a salary or compensation for the performance of his or her duties as officer. Actual expenses incurred in the performance of his or her duties may be reimbursed at the discretion of the Board of Directors.

ARTICLE VIII

Committees

Section 1. The following standing committees are hereby created: Membership Committee, Finance Committee, House Maintenance Committee, House Security Committee, Program and Entertainment Committee, Activities Committee, Recording Committee, Publicity Committee, By-Laws Committee, and as more particularly set forth Section 9 below, an Organ Trustee Committee. The duties of these committees shall be promulgated by the Board of Directors from time to time. In addition, special committees may be established by the Board of Directors, the purpose, duties and scope of activities of which shall be defined at the time of their creation.

Section 2. Except as set forth in Section 9. hereof, the membership of all active committees shall be appointed by the President from the general membership in good standing with the approval of the Board of Directors and shall serve at the pleasure of the Board of Directors and nothing herein contained shall be construed to preclude any committee member from serving on more than one committee or in any other capacity hereunder.

Section 3. Each committee shall consist of at least one (1) or more director and shall have and may exercise the powers set forth by the Board of Directors. The term of office of the members of each committee shall be as fixed from time to time by the Board of Directors, subject to the term of office of the directors and the provisions of these by-laws; provided, however, that any committee member who is a director and who ceases to be a member of the Board of Directors or of the Society shall ipso facto cease to be a committee member. Each committee shall appoint a secretary to keep and maintain true and complete records of the proceedings of all committee meetings.

Section 4. Each committee may provide for the holding of regular meetings, with notice, and a majority of the members of any such committee may fix the time, place and procedure for any such meeting. Special meetings of each committee shall be held upon call by or at the direction of its chairman or, if there be no chairman, by or at the direction of any one (1) of its members, at the time and place specified in the respective notices or waivers of notice thereof. Notice of each special meeting of a committee shall be mailed or electronically transmitted to each member of such committee at the address on file with the Secretary at least ten (10) days before the day on which the meeting is to be held; provided that, notice of any meeting of a committee need not be given to any member thereof who shall attend the meeting in person or who shall waive notice thereof and notice of any adjourned meeting need not be given.

Section 5. Each committee may meet and transact any and all business delegated to that committee by the Board of Directors by means of a conference telephone or similar communications equipment, provided that all persons participating in the meeting are able to hear and communicate with each other. Participation in a meeting by means of conference telephone or similar communication equipment shall constitute presence in person at such meeting.

Section 6. At each meeting of any committee, the presence of a majority of its members shall be sufficient to constitute a quorum for the transaction of business; and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. In the absence of a quorum, a majority of the members present at the time and place of any meeting may adjourn the meeting from time to time until a quorum shall be present. Subject to the foregoing and other provisions of these by-laws and except as otherwise determined by the Board of Directors, each committee may make rules for the conduct of its business. Any determination made

in writing and signed by all the members of such committee shall be as effective as if made by such committee at a meeting.

Section 7. Any member of a committee may resign at any time by giving written notice of such resignation to the Board of Directors and, unless otherwise specified in such notice, such resignation shall take effect upon receipt thereof by the Board of Directors. Any member of any committee may be removed at any time by the affirmative vote of a majority of the Board of Directors with or without cause. If any vacancy shall occur in any committee by reason of death, resignation, disqualification, removal or otherwise, the remaining members of such committee, though less than a quorum, shall continue to act until such vacancy is filled by the Board of Directors.

Section 8. Except as otherwise determined by the Board of Directors, no person shall receive a salary, compensation or reimbursement of expenses incurred for his or her performance as a committee member.

Section 9. In addition to the standing committees created above, an Organ Trustee Committee shall be created as a permanent standing committee of the Society with rules and duties defined as follows:

- a. The Organ Trustee Committee (“OTC”) shall consist of five (5) members elected by the membership and an Organ Maintenance Chairman, who shall be appointed by the Board of Directors. The term of office of the elected OTC members shall be five (5) years and these By-Laws shall reflect that, as of the effective date hereof, there is now and shall be at least one (1) OTC vacancy in each successive year for which an election shall be held.
- b. In each successive year, the Board of Directors shall nominate not less than two qualified candidates for the OTC vacancy and the nominee accepting such nomination who receives the most votes cast by ballot of the membership taken at the annual general meeting of the membership shall be elected to serve a five (5) year term.
- c. An OTC vacancy occurring during a term of office shall be filled by appointment by the President with approval of the Board of Directors. At the next annual membership meeting, the OTC vacancy shall be filled through nomination and election procedure established in subparagraph b. above and the person so elected shall serve for the balance of the then unexpired term of the vacating member.
- d. The OTC shall make recommendations for modifications, alterations or additions to the organ and/or its supporting and enclosing structures to the Board of Directors, who shall consider such changes. Upon their approval of any such recommendation, the Board of Directors shall submit such changes to the membership for consideration and action in accordance with subparagraph e. below. For the purposes hereof, the terms "modification, alterations or additions" shall be interpreted using the following as a guideline:
 1. Changing the stop tablet arrangement on the console or addition of an electronic relay.
 2. Moving a rank or ranks of pipes from one chamber to another.
 3. Replacing or re-voicing more than one-third (1/3) of the manual chest pipes of any rank of pipes.
 4. Changes in the chamber layout.

5. Changes in arrangement of the swell shades.
 6. Addition of any additional ranks of pipes with the necessary switches, relays and stops over and above the thirty-four (34) originally a part and parcel of the instrument.
 7. Addition of a second console.
 8. Addition of any percussion instruments, traps, bells or other such devices with the necessary switches and stop tablets over and above those which are part and parcel of the instrument.
- e. Any recommended changes to the organ must first be published in two successive monthly newsletters of the Society and no changes can be made less than sixty (60) days after the first such publication is mailed to the membership. If any Playing Member shall, within such sixty (60) day period, dispute or otherwise challenge in writing any such proposed changes to the organ or its supporting and enclosing structures, such changes must be put to the vote of the membership and be approved by a two-thirds (2/3) majority of the votes cast. Voting by mail is hereby approved. In such event, no such changes shall be undertaken until authorized by such vote and, in the event authorized by vote all such changes must meet or exceed the original factory standards.

ARTICLE IX
Amendments to the by-laws

Section 1 The power to alter, amend or repeal the by-laws or to adopt a new code of by-laws is reserved to the Playing Members only.

Section 2. Proposed changes to the by-laws may be initiated by the Board of Directors or by a resolution passed by the Playing Members at any meeting of the membership. Changes to Article X of these by-laws is specifically prohibited unless consent to such change has been received in writing from George and Muriel Orbits, or their respective heirs, legal representatives, successors or assigns and the U.S. Internal Revenue Service.

Section 3. Proposed changes to the by-laws may be voted upon at any meeting of the Playing Members; provided that notice of the proposal to change the by-laws and the proposed changes shall have been mailed to each Playing Member at the address carried on the books of the Society, at least fifteen (15) days prior to the date of such meeting.

Section 4. The affirmative vote of not less than two-thirds (2/3) of all valid votes cast by Playing Members shall be required to alter, amend, repeal or adopt a new code of by-laws. All by-laws amendments adopted shall become effective immediately after the adjournment, sine die, of the meeting at which the said vote took place. Absentee balloting shall be permitted under rules and regulations promulgated by the Board of Directors from time to time.

ARTICLE X
Dissolution or Dilution

Section 1. Any action involving dissolution of the Society or dilution of the membership of the Society through merger with or acquisition of or by another organization or entity is reserved for the Playing Members only.

Section 2. If any dissolution or dilution action as described in Section 1 above is approved by the Playing Members or, if the Society can no longer provide a safe, secure or permanent home for the Wurlitzer Pipe Organ, Opus 1953 where it will be maintained in good operable condition, such action shall automatically activate the terms and conditions of that certain agreement between the Society and George C. and Muriel Orbits; their heirs, personal representatives, successors or assigns (collectively, "Orbits"), granting a first right of refusal thereto on any disposition by the Society, its successors or assigns, of the said Wurlitzer Pipe Organ, Opus 1953, together with its appurtenances, whether by sale, gift, or other means. The conditions of Article X, Section 2 delineated hereunder must specifically be complied with and completed prior to any other actions outlined in Section 1 above. The procedure shall be as follows:

1. Within fifteen (15) days following the approval of any action outlined in Section 1 above by the Playing Members, the Board of Directors shall form and appoint three directors to a committee for the purpose of fulfilling the referenced agreement.
2. The committee shall forthwith begin work to find an appropriate home for the organ where it can be retained as a completely installed and operable musical unit in the Southeastern Michigan area, and where it will be properly maintained. Recommendations formulated by the committee will be presented to Orbits for review.
3. If Orbits agrees that the committee recommendations, in Orbits' opinion, provide for proper preservation of the organ by the Society, Orbits will consent in writing to the committee's recommendations. Upon receipt of such consent, the Society will carry out the committee recommendations in accordance with the approval as submitted. If, for any reason, the approved plan must be altered, such revised plan must be submitted to Orbits for further approval.
4. If Orbits does not agree that the committee recommendations will adequately protect the organ, or, if the committee is unable to find a suitable home for the organ, then Orbits will have the first right of refusal to purchase the organ from the Society. Any legitimate and bonafide offer submitted in writing to the Society for the purchase of the organ which is acceptable to the Society, must be first submitted to Orbits before acceptance of the offer to purchase by the Society. Orbits will have thirty (30) days from the date the offer is submitted thereto to match the exact terms and price offered for the organ. If Orbits does not exercise its right to purchase the organ within the said thirty (30) day period, the Society is free to accept the offer and to sell, transfer, convey and assign ownership of the organ.
5. If no acceptable offer to purchase the organ is received by the Society, the Society will hold a public auction for the sale of the Wurlitzer Pipe Organ, Opus 1953. Sufficient notice of the auction will be given and a minimum bid price of Twenty Thousand Dollars (\$20,000.00) will be established. Orbits will have thirty (30) days to meet the price of the successful auction bid or to pay the minimum bid price if no higher bid is received and purchase the organ. If Orbits does not exercise the right to meet the successful bid price within thirty (30) days, the Society is free to complete the auction sale transaction and to sell, transfer, convey and assign ownership of the organ to the successful bidder at the bid price.
6. In the event that the organ is not sold at auction, it may be offered for sale or otherwise disposed of upon such other terms and conditions as the Board of Directors may then deem necessary or advisable, in its sole discretion; provided that, the first right of refusal

granted to Orbits shall apply in any event of such sale or other disposition, in accordance with the terms of the agreement.

Section 3. All of the remaining assets of the Society after payment of all lawful debts shall be finally disposed of by donation to other Internal Revenue Code ("IRC") Section 501(c)(3) organizations that are legally entitled to receive such donations under the regulations of the IRC. No assets of the Society shall inure to or be distributed to the benefit of any member, individual or organization not lawfully entitled to receive them. Disposition of the remaining assets shall be as follows:

1. Any bequests from the estates of deceased members shall be segregated from the remaining assets. The amount of the bequests to be deemed to have been expended will be determined by the formula where the numerator is the original amount of such bequests and the denominator the value of all cash balances remaining in the Society's accounts including the remaining bequests. The result of this calculation will determine (how much) shall be applied to the total bequests to be the unexpended portion of such bequests. Unexpended portions of bequests shall be donated to a group which is an IRC Section 501(c)(3) organization and which owns or maintains a theater organ.
2. The remaining assets, which will include the amount of the bequests deemed to have been expended, shall be distributed to other IRC Section 501(c)(3) organizations deemed worthy to receive it by the Board of Directors.

ARTICLE XI **Corporate Matters**

Section 1. All corporate documents (including agreements, checks, notes, disbursements, loans, and other debt obligations) shall not be signed by any officer, designated agent, or attorney-in-fact unless authorized by the Board of Directors or by these by-laws.

Section 2. The fiscal year of the corporation shall end on December 31.

Section 3. The corporation shall assume all liability to persons other than the corporation or its members for any act or omission of a volunteer director of the corporation incurred in the good faith performance of such director's duties.

ARTICLE XII **Indemnification**

Section 1. Nonderivative Actions. Subject to all of the other provisions of this article, the Society shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding. This includes any civil, criminal, administrative, or investigative proceeding, whether formal or informal (other than an action by or in the right of the Society) but shall apply only to a person who was or is a director or officer of the Society, or who was or is serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, whether for profit or not for profit. The person shall be indemnified and held harmless against expenses (including attorney fees), judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred by in connection with such action, suit or proceeding, if the 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 Society or its members. With respect to any criminal

action or proceeding, the person must have had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent, shall not by itself create a presumption that (a) the person did not act in good faith and in a manner that the person reasonably believed to be in or not opposed to the best interests of the Society or its members or (b) with respect to any criminal action or proceeding, the person had reasonable cause to believe that his or her conduct was unlawful. .

Section 2. Derivative Actions. Subject to all of the provisions of this article, the Society shall indemnify any person 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 Society to procure a judgment in its favor because (a) the person was or is a director or officer of the Society or (b) the person was or is serving at the request of the Society as a director, officer, partner, trustee, employee, or agent of another foreign or domestic Society, partnership, joint venture, trust, or other enterprise, whether or not for profit. The person shall be indemnified and held harmless against expenses (including actual and reasonable attorney fees) and amounts paid in settlement incurred by the person in connection with such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Society or its members. However, indemnification shall not be made for any claim, issue, or matter in which such person has been found liable to the Society unless and only to the extent that the court in which such action or suit was brought has determined on application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for the expenses which the court considers proper.

Section 3. To the extent that a person has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in this Article, or in defense of any claim, issue, or matter in the action, suit, or proceeding, the person shall be indemnified against expenses (including actual and reasonable attorney fees) incurred in connection with the action and in any proceeding brought to enforce the mandatory indemnification provided by this article.

Section 4. The right to indemnification conferred in this Article shall be a contract right and shall apply to services of a director or officer as an employee or agent of the Society as well as in such person's capacity as a director or officer. Except as provided in Section 3. of this article, the Society shall have no obligation to indemnify any person in connection with any proceeding, or part thereof, initiated by such person without authorization by the Board of Directors.

Section 5. Any indemnification under this Article (unless ordered by a court) shall be made by the Society only as authorized in the specific case and the Society must determine that indemnification of the person is proper in the circumstances because the person has met the applicable standard of conduct set forth in Sections 1. or 2. hereof, whichever is applicable, which determination shall be made in any of the following ways:

- (a) By a majority vote of a quorum of the Board of Directors consisting of directors who were not parties to such action, suit, or proceeding.
- (b) If the quorum described in clause (a) above is not obtainable, then by a committee of not less than two disinterested directors who are not parties to the action.
- (c) By independent legal counsel in a written opinion.
- (d) By the membership.

Section 6: If a person is entitled to indemnification under this Article for a portion of expenses, including attorney fees, judgments, penalties, fines, and amounts paid in settlement, but not for the total amount, the Society shall indemnify the person for the portion of the expenses, judgments, penalties, fines, or amounts paid in settlement for which the person is entitled to be indemnified.

Section 7. Expenses incurred in defending a civil or criminal action, suit, or proceeding described in this Article may be paid by the Society in advance of the final disposition of the action, suit, or proceeding on receipt of an undertaking by or on behalf of the person involved to repay the expenses, if it is ultimately determined that the person is not entitled to be indemnified by the Society. The undertaking shall be an unlimited general obligation of the person on whose behalf advances are made but need not be secured.

Section 8. The indemnification or advancement of expenses provided under this Article is not exclusive of other rights to which a person seeking indemnification or advancement of expenses may be entitled under a contractual arrangement with the Society; provided that, the total amount of expenses advanced or indemnified from all sources combined shall not exceed the amount of actual expenses incurred by the person seeking indemnification or advancement of expenses.

Section 9. The Society may, to the extent authorized from time to time by the board, grant rights to indemnification and to the advancement of expenses to any employee or agent of the Society to the fullest extent of the provisions of this Article with respect to the indemnification and advancement of expenses of directors and officers of the Society.

Section 10. The indemnification provided in this article continues for a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors, and administrators of that person.

Section 11. The Society may purchase and maintain insurance on behalf of any person who (a) was or is a director, officer, employee, or agent of the Society or (b) was or is serving at the request of the Society as a director, officer, employee, or agent of another Society, partnership, joint venture, trust, or other enterprise, to protect against any liability asserted against the person and incurred in any such capacity or arising out of his or her status as such, whether or not the Society would have power to indemnify against such liability under this article or the laws of the state of Michigan.

Section 12. If there are any changes in the Michigan statutory provisions applicable to the Society and relating to the subject matter of this Article, then the indemnification to which any person shall be entitled shall be determined by such changed provisions, but only to the extent that any such change permits the Society to provide broader indemnification rights than such provisions permitted the Society to provide before any such change.
