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**BYLAWS OF THE NORTH CAROLINA BOTANICAL GARDEN
FOUNDATION, INC.**

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Article I

Name and Purposes

Section 1: The name of the organization shall be the North Carolina Botanical Garden Foundation, Inc. (the Foundation).

Section 2: The Foundation is registered as a non-profit organization in North Carolina and is recognized as an Associated Entity of The University of North Carolina at Chapel Hill.

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Section 3: The purpose of the Foundation is to support the mission and objectives of the North Carolina Botanical Garden (the Garden), a unit of the University of North Carolina at Chapel Hill (UNC-CH). Consistent with this purpose, the Foundation will

- a. Operate in accordance with its mission statement, "To partner with the North Carolina Botanical Garden to conserve our natural heritage";
- b. Advocate for the Garden in all venues (university, state legislature, and the general public) to the extent permitted under applicable law, including North Carolina law and the Internal Revenue Code;
- c. Hold lands and interests in land as a land trust to further the Foundation's purpose and mission; and
- d. Maintain a membership whose purpose is to do each of the following in support of plant conservation:
 - i. Raise money for the Garden,
 - ii. Foster community, and
 - iii. Inspire advocacy and support.

Section 4: The principal office and registered agent of the Foundation shall be located in Chapel Hill, N.C. The offices of the Foundation will be at the facilities of the Garden.

Article II

Foundation Membership

Section 1: Memberships support the Garden's core mission of plant conservation, botanical research, education, outreach, and native plant horticulture. All members of the Foundation will be members for one year following the date on which annual dues were paid.

Section 2: Funds derived from membership fees to the Foundation will be used to meet the annual operating expenses of the Foundation and for support of the Garden.

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Section 3: The Board of Directors, in concert with Garden leadership, shall define the different classes of membership, and approve the fee schedule and membership privileges of each class.

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Section 4: Voting. The general membership will be non-voting.

Article III

Directors

Section 1: Composition of the Foundation Board. The Board of Directors shall consist of at least 15 and no more than 30 Board directors. Within these limits, the Board may increase or decrease the number of directors, including for the purpose of staggering terms. The Director of the Garden and the UNC-CH senior administrator to whom the Director of the Garden reports shall be ex officio Board directors, with the power to vote. The President of the Garden Club of North Carolina and the immediate past president of the Foundation, if he or she has completed his or her term as a Board director, shall be ex officio Board directors, without voting power.

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Section 2: Honorary Directors. In recognition of significant service to the Foundation or contributions of another nature, the Board of Directors, upon the recommendation of the Governance Committee, may also appoint honorary or emeritus Board directors. Such directors shall be considered ex officio Board directors but shall not have the power to vote at Board of Directors meetings.

Section 3: Elections: Terms and Vacancies. Board directors shall be elected to serve three-year terms and may not serve more than two consecutive terms, except as provided in Article IV, Section 2, although they may be elected again after at least a one-year retirement from the Board of Directors. Such elections shall occur at the Fall meeting of the Foundation Board by majority vote of the Board directors present. Terms of Board directors will begin on January 1 of the year following their election and expire on December 31 at the end of their three-year terms. Any Board director may resign at any time by giving written notice to the President of the Board. The resignation takes effect upon receipt of the notice or at a later date if specified in the notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any Board director may be removed at any time with or without cause by a two-thirds vote of the Board of Directors. Vacant, unexpired terms of the Board of Directors may be filled by the Executive Committee, after consultation with the Governance Committee.

Section 4: Meetings. The Board of Directors shall meet a minimum of three times per year. At least two meetings shall be in person. The Fall meeting of the Board of Directors shall be in person at the place of and on the date of the regular Annual Meeting of the Foundation Membership (see Article VII). The President shall designate the time of the Board meetings. Special meetings of the Board may be held at the call of the President, or upon the written request of three Board directors, upon ten days' notice.

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Section 5: Quorum. Fifty percent of all serving Board directors, including ex officio directors with the power to vote, shall constitute a quorum at any meeting of the Board. Board action may be taken on simple majority vote of the Board directors attending. Any Board director who is not

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physically present may participate electronically by telephone or via the Internet so long as all Board directors are able to hear and/or see the directors(s) participating remotely. Action may be taken by written ballot or electronic transmission, as provided by NC General Statutes section 55A-7-08 and section 55A-8-21.

Section 6: Function. The Board of Directors shall determine in what way, and to what extent, the Foundation can best serve its purpose in furthering the aims of the Garden. The Board of Directors will be guided by the Land Trust Alliance's Standards and Practices in acquiring and managing conservation easements and land holdings. The Board shall comply with the requirements of the Agreement between North Carolina Botanical Garden Foundation, Inc. and The University of North Carolina at Chapel Hill (the "Associated Entity Agreement"), and with the Foundation's Policies for Acquisition and Management of Botanical Preserves and Conservation Easements.

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Article IV

Officers

Section 1: Officers. The officers of the Foundation shall be a President, Vice-President, Secretary, and Treasurer.

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Section 2: Method of Election; Vacancies. The officers shall be elected by a majority of the Board directors at the Fall Board meeting. Each officer shall hold office for two calendar years (one term) following his or her election. An officer may serve a maximum of four years (two terms). A vacancy in any officer position shall be filled by the Executive Committee, after consultation with the Governance Committee, for the unexpired term of the officer whose term is not completed. The Executive Committee may approve an extension of an officer's term as a Board director by up to two years if necessary to allow that officer to complete his or her term as officer or serve a second officer term.

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Section 3: Duties of Officers

a. President. The President shall be responsible for carrying out the policies adopted by the Foundation and its Board of Directors. The President shall:

1. serve as the chair of the Board of Directors and the Executive Committee. He or she shall preside at all meetings of the Foundation membership, all meetings of the Board of Directors, and all meetings of the Executive Committee;
2. insure that there is regular communication with Board directors;
3. coordinate the work of all Board committees and task groups;
4. with the Garden Director, establish the agenda for each Board meeting and Executive Committee meeting;
5. agree to and execute all deeds, contracts, agreements, transfers, and such other legal instruments on behalf of the Foundation to the extent authorized by the Board of Directors;
6. expend funds on behalf of the Foundation to the extent authorized by the Board of Directors;

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7. engage attorneys, advisors, agents, officers, independent contractors, employees and others on behalf of the Foundation to the extent authorized by the Board of Directors; and

8. in his or her discretion, delegate any of the foregoing powers and duties to the Vice-President, and rescind any such delegation, at any time with immediate effect upon informing the Vice-President in writing.

b. Vice-President. The Vice-President shall exercise such powers and perform such duties as may be assigned to him or her from time to time by the Board of Directors, the Executive Committee, or the President. In case of the absence, incapacity, unavailability, or disability of the President, the Vice-President shall exercise the obligations and duties of the President. If any powers of the President are delegated to the Vice-President, the Vice-President shall be subject to all of the obligations and duties to which the President would be subject in exercising such powers.

c. Secretary. The Secretary shall record and preserve records and minutes of all meetings of the Foundation's Board of Directors and Executive Committee.

d. Treasurer. Subject to the policies of the Foundation, custody and management of the assets of the Foundation shall be undertaken by the Director of Business Operations of the Garden. The Foundation shall operate under an annual budget as recommended by the Foundation Treasurer in consultation with the Garden Director and adopted by the Board of Directors. The Treasurer shall:

1. chair the Finance Committee;
2. consult with Garden staff, investment advisory staff, and audit staff, as needed;
3. periodically review the status of the budget, interim financial statements, and the transactions and books of the Foundation;
4. monitor investment accounts and performance and recommend changes to the Executive Committee;
5. review the annual informational tax return of the Foundation;
6. review the annual independent audit and recommend and monitor corrective action; and
7. render to the Executive Committee and the Board accounts of the financial condition of the Foundation.

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Section 4. Authority to Sign Checks and Approve Expenditures. The President, Treasurer and Garden Director shall be authorized to sign checks and approve expenditures, whether through the Foundation checking account or a Garden account. Any one of these individuals may sign a check in any amount for expenses that have been approved by the Board in the Foundation's annual budget, including the amounts budgeted for the Garden. If an expense has not been approved in such annual budget, then any two of these individuals shall be required to sign a check or approve and expenditure for an amount in excess of \$25,000.

Article V

Executive Committee

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Section 1: Composition. The Executive Committee shall consist of the following:

- President
- Vice-President
- Secretary
- Treasurer
- Immediate Past President
- Garden Director
- Governance Committee Chair or Co-Chairs
- Development and Membership Committee Chair or Co-Chairs
- Conservation Committee Chair or Co-Chairs
- Audit Committee Chair or Co-Chairs
- At-large members

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Up to four Board directors may be appointed by the President to serve for up to two years as at-large voting members of the Executive Committee.

Section 2: Function. The Executive Committee shall act between the meetings of the Board of Directors and shall possess all of the powers of the Board in regard to the conduct of the business of the Foundation, provided, however, that the Executive Committee shall have no power to alter or amend the By-laws of the Foundation or to make final decisions as to the acquisition of land holdings and conservation easements. The Executive Committee shall oversee the solicitation, receipt, and disbursement of Foundation funds within the approved annual budget and in accordance with the budgeting procedures established by the Board and the fiscal needs of the Foundation and the Garden.

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Section 3: Procedure. Fifty percent of all Board directors serving on the Executive Committee, including ex officio directors with the power to vote, shall constitute a quorum at any meeting of the Executive Committee. Executive Committee action may be taken on simple majority vote of the committee members present. Action may be taken by written ballot or electronic transmission, as provided by NC General Statutes section 55A-7-08 and section 55A-8-21.

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Article VI

Committees

Section 1: Standing Committees. There shall be five standing committees of the Foundation: Conservation, Governance, Development and Membership, Finance, and Audit. The duties and responsibilities of each standing committee shall be fixed in a charter, which shall be approved by the Executive Committee.

a. Committee members may be drawn from the Board directors, the Foundation membership, and the wider community, with the exception of the Governance Committee, which shall include only Board directors and honorary directors.

b. A least fifty-one percent of the Governance Committee shall consist of active Board directors.

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c. Each committee chair or co-chair shall be a Board director.

d. All committee members shall have the power to vote, provided that each voting member must comply with the conflict of interest provisions of Article XI.

e. The President of the Foundation and the Garden Director shall be ex officio members of each committee and shall have the power to vote in committee meetings.

f. Notwithstanding the above, the Audit Committee shall not include the Garden Director or any member of the Garden staff, other University employees, or paid employees of the Foundation. The Audit Committee shall include at least one financial expert as a member.

Section 2: Nominations to the Board of Directors. The Governance Committee shall serve as the nominating committee for Board directors and for honorary directors. The vacant unexpired term of any Board director may be filled by the Executive Committee, after consultation with the Governance Committee, for the unexpired term of the Board director whose term is not completed.

Section 3: Additional Standing Committees. The Executive Committee may provide for any additional standing committee deemed necessary for the proper conduct of the affairs of the Foundation. The duties and responsibilities of each such committee shall be fixed by a charter approved by the Executive Committee.

Article VII

Meetings of the Foundation Membership

Section 1: Regular Meetings. There shall be one membership meeting each year, the Annual Meeting of the Foundation, to be held in the Fall at the Garden in Chapel Hill, North Carolina. The purpose of the Annual Meeting is to inform members of the work of the Foundation and Garden in the preceding year, to engage members in strengthening the work of the Garden, and to allow member input to the Board of Directors of the Foundation.

Section 2: Special Meetings. Special meetings of the Foundation membership may be called by a majority vote of the Board of Directors in any of its official meetings.

Section 3: Notice. At least thirty days prior to the date set for any meeting of the Foundation membership, notice of the time and place of such meeting shall be made through printed or electronic communication to each member of the Foundation.

Article VIII

Fiscal Year

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Section 1: Duration. The fiscal year of the Foundation shall be from July 1 through June 30 inclusive.

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Article IX

Amendments

Section 1: Method. These By-laws may be amended, altered, or repealed by the Board of Directors at any regular Board meeting or at any special meeting, provided that notice of the proposed change or amendment is given in the notice of such meeting and is given at least thirty days in advance of the meeting.

Article X

Indemnification

Section 1: Every Board director, officer, or employee of the Foundation shall be indemnified by the Foundation against all expenses and liabilities, including counsel fees, reasonably incurred or imposed upon such Board director, officer or employee in connection with any threatened, pending or completed action, suit or proceeding in which he or she may become involved by reason of his or her being or having been a Board director, officer or employee, or any settlement thereof, unless adjudicated therein to provide for gross negligence or misconduct in the performance of his or her duties. Provided, however, that in the event of a settlement, the indemnification herein shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the Foundation. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Board director, officer, or employee is entitled. In addition, the Foundation shall maintain, at all times, a directors and officers liability insurance policy.

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Article XI

Conflicts of Interest

Section 1: The work of the Foundation is to be performed without any conflict of interest. A "conflict of interest" is defined as an actual or perceived interest by a Board director or non-director member of any committee in an action that results in, or has the appearance of resulting in, personal, organizational, or professional gain. Officers, Board directors and non-director committee members are obligated to always act ethically and in the best interest of the Foundation. This obligation requires that any officer, Board director, or non-director committee member, in the performance of Foundation duties, seek only the furtherance of the Foundation's mission. At all times, officers, Board directors, and non-director committee members are prohibited from using their job title or the Foundation's name or property for private profit or benefit.

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Section 2: To ensure the proper monitoring of any applicable "conflict of interest" disclosure, Board directors and non-director committee members will annually be required to read the Foundation's Conflict of Interest Policy and then submit a signed copy of the Foundation's Conflict of Interest Disclosure Form to the Governance Committee chair (or designee) by the first day of each calendar year. In the interim, if any contemplated transaction

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| by the Foundation could result in a conflict of interest, the Executive Committee shall inquire of all Board directors about a potential conflict.

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