

---

# VALLEY FORGE MILITARY ACADEMY FOUNDATION BY-LAWS

(As of November 6, 2018)

---

## REGISTERED OFFICE

1. The registered office of the Foundation is to be at Wayne, Delaware County, Pennsylvania, or at such other location, either within or without the County as may be approved by the Trustees of the Foundation.

## SEAL

2. The Corporate Seal of the Foundation shall have inscribed thereon the name of the Foundation, the year of its creation and the words “A NONPROFIT CORPORATION” and “CORPORATE SEAL, PENNSYLVANIA”.

## FISCAL YEAR

3. The fiscal year of the Foundation shall begin the first day of July.

## MEMBERS

4. The membership of the Foundation shall consist of the persons constituting the Board of Trustees (sometimes referred to as the “Board of Trustees” and sometimes referred to as the “Board”).

## APPOINTMENT OF TRUSTEES

5. The business of the Foundation shall be managed by a Board of Trustees, no less than nine (9), nor more than thirty-five (35) in number. Trustees shall be appointed or designated in the following manner: At the Annual Meeting, Trustees shall appoint and reappoint Trustees, each Trustee to serve for three years from 1 July of the first year through 30 June of the third year, or until their successors are duly appointed and qualified. Annually, two (2) representatives of the Alumni Association (the “Alumni Association Representatives”) shall be appointed members of the Board of Trustees in the manner provided in Paragraph 6, below. The incumbent President of Valley Forge Military Academy and College shall be an ex officio, nonvoting member of the Board of Trustees, and shall not be counted as part of the thirty-five (35) nor for purposes of a quorum. Except with respect to the Alumni Association Representatives (referred to in Paragraph 6, below), the term of up to eleven (11) of the Trustees shall expire at the end of each year. A newly appointed Trustee may be appointed for an initial term of less than three (3) years.

6. Upon satisfactorily completing the vetting process (the process of examination, investigation and evaluation of a prospective member of the Board of Trustees) by the Committee on Trustees and appointment by the Board of Trustees, in accordance with the provisions of Paragraph 5, the incumbent Chairman of the Board of Directors of the Alumni Association and the incumbent President of the Alumni Association shall become Trustees. In the event the incumbent Chairman of the Board of Directors of the Alumni Association and/or the incumbent President of the Alumni Association does not satisfactorily complete the vetting process of the Committee on Trustees and appointment by the Board of Trustees, the Board of Directors of the Alumni Association shall designate a member or members of the Board of Directors of the Alumni Association to serve on the Board of Trustees in place of the incumbent Chairman and/or incumbent President, subject to such designated member or members satisfactorily completing the vetting process of the Committee on Trustees and appointment by the Board of Trustees, as previously stated.

#### MEETING OF TRUSTEES

7. There shall be four (4) meetings of the Board of Trustees during each fiscal year, one during each calendar quarter if possible. One meeting shall be held on a weekday during the week of Alumni Homecoming Saturday in spring in each year, at a time and place designated by the Chairman of the Board of Trustees of the Foundation (the "Annual Meeting"). The other three meetings shall be held at times and places, also designated by the Chairman of the Board ("Regular Meetings").

#### SPECIAL MEETINGS

8. Special meetings may be held at the call of the Chairman, which the Chairman may make at the Chairman's discretion and shall make on the written request of a minimum of seven (7) Trustees. Special meetings will require at least five (5) days written notice or three (3) days electronic mail, facsimile or telephone notice.

#### NOTICE OF MEETINGS OF TRUSTEES

9. Except as provided in paragraph 8, relating to Special Meetings, a written notice of all Trustee meetings shall be given at least ten days prior to the meeting.

10. Under the provisions of the Nonprofit Corporation Law of 1988 (the "1988 NCL") or by the Articles of Incorporation (the "Articles") or by these By-Laws, notice of the date, time and place of every stated annual and regular meeting shall be sent by mail, email or facsimile to each Trustee at the last known address on record with the Foundation, at least ten (10) calendar days prior to the time set for the meeting. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail, postage prepaid, addressed to the member at the member's current address as it appears on the record of the Foundation. A notice of meeting shall specify the place, day and hour of the meeting and any other information required by any other provision of the 1988 NCL, the Articles or these By-Laws.

11. Notice or other communications shall not be sent to any Trustee with whom the Foundation has been unable to communicate for more than twelve (12) consecutive months because communications to the Trustee are returned unclaimed or the Trustee has otherwise failed to provide the Foundation with a current address. Whenever the Trustee provides the Foundation with a current address, the Foundation shall commence sending notices and other communications to the Trustee in the same manner as to other Trustees.

NOTICE OF CANCELLED MEETING OF TRUSTEES

12. When a meeting of Trustees is cancelled, it shall not be necessary to give any notice of the cancelled meeting or of the business to be transacted at the cancelled meeting, other than by announcement at the meeting at which the cancellation is taken, unless the Board fixes a new record date for the cancelled meeting.

WRITTEN WAIVER OF NOTICE

13. Whenever any written notice is required to be given under the provisions of the 1988 NCL, the Articles or these By-Laws, a waiver thereof in writing, signed by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of the notice. Except as otherwise required by this section, neither the business to be transacted at, nor the purpose of, a meeting need be specified in the waiver of notice of the meeting. In the case of a Special Meeting of Trustees, the waiver of notice shall specify the general nature of the business to be transacted.

WAIVER OF NOTICE BY ATTENDANCE

14. Attendance of a person at any meeting shall constitute a waiver of notice of the meeting except wherein a person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting was not lawfully called or convened.

QUORUM AND VOTING AT MEETINGS OF BOARD

15. Each Trustee shall be entitled to one vote in person or by proxy.

16. A majority of the then current membership of the Board of Trustees, in person or by proxy, shall constitute a quorum for the transaction of any business, and the acts of a majority of such members of the Board at the meeting at which a quorum is present shall, unless otherwise specifically provided by the 1988 NCL, the Articles or these By-Laws, be the acts of the Board of Trustees. If all the Trustees constituting the Board at any time shall severally or collectively consent in writing to any action to be taken by the Foundation, such action shall be as valid corporate action as though it had been authorized at a meeting of the Board of Trustees.

PROXIES

17. Every Trustee entitled to vote at a meeting of Trustees or to express consent or dissent to Foundation action in writing without a meeting may authorize another person to act for the Trustee by proxy. However, the person to whom the proxy is assigned must also be a Trustee.

18. The presence of, or vote or other action at a meeting of Trustees, or the expression of consent or dissent to Foundation action in writing, by a proxy of a Trustee shall constitute the presence of, or vote or action by, or written consent or dissent of the Trustee.

19. Every proxy shall be executed in writing by the Trustee or by the duly authorized attorney-in-fact of the Trustee and filed with the Secretary of the Foundation. A proxy, unless coupled with an interest, shall be revocable at will, notwithstanding any other agreement or any provision in the proxy to the contrary, but the revocation of a proxy shall not be effective until written notice thereof has been given to the Secretary of the Foundation. An un-revoked proxy shall not be valid after ninety (90) days from the date of its execution unless a longer time is expressly provided therein. In any case, the period of time shall not exceed one (1) year. A proxy shall not be revoked by the death or incapacity of the maker unless, before the vote is counted or the authority is exercised, written notice of the death or incapacity is given to the Secretary of the Foundation.

#### LIST OF TRUSTEES

20. A list of Trustees entitled to vote shall be maintained by the Secretary.

#### GENERAL POWERS OF TRUSTEES

21. The Board of Trustees shall manage the business of the Foundation. In addition to the powers and authorities by these By-Laws expressly conferred upon them, the Board may exercise all such powers of the Foundation and do all such lawful acts and things as are not by 1988 NCL, the Articles or these By-Laws directed or required to be exercised or done by the Trustees.

#### SPECIFIC POWERS OF TRUSTEES

22. Without prejudice to the general powers conferred by the last preceding clause, and the other powers conferred by the Articles, and by these By-Laws, it is hereby expressly declared that the Board of Trustees shall have the following powers:

FIRST: From time to time to make and change rules and regulations not inconsistent with these By-Laws, for the management of the Foundation's business and affairs.

SECOND: To purchase or otherwise acquire for the Foundation any property, rights or privileges which the Foundation is authorized to acquire, at such price and on such terms and conditions and for such consideration as they shall from time to time see fit.

THIRD: To appoint, remove or suspend a President of the Valley Forge Military Academy and College; to conduct, through the Chair and Vice-Chair an annual performance review of the President between May and September of each year with the express purpose of:

- a) Indicating satisfaction or dissatisfaction with job performance;
- b) Setting compensation parameters for coming year;
- c) Discussing President's succession when appropriate;
- d) Acting re President's successor as necessary; and at their discretion, appoint, remove or suspend any subordinate officers, agents or servants of the Foundation permanently or temporarily, as they may from time to time think fit, and to determine their duties, by Resolution where necessary, and fix, and from time to time change, their salaries or benefits, and to require security in such instances and in such amounts as they may see fit. The Chairman and Vice Chairman will provide a report to the Executive Committee regarding the results of the President's Annual Performance Review.

FOURTH: To confer by Resolution upon an appointed officer of the Foundation the power to choose, remove or suspend such subordinate officers, agents or servants.

FIFTH: To appoint any person or persons to accept and hold in trust for the Foundation any property belonging to the Foundation, or in which it is interested, or for any other purpose, and to execute and do all such duties and things as may be requisite in relation to any such trust.

SIXTH: To determine who shall be authorized on the Foundation's behalf to sign bills, notes, receipts, acceptances, endorsements, checks, releases, contracts and documents.

SEVENTH: From time to time to provide for the management of the affairs of the Foundation, at home or abroad, in such manner as they see fit, and in particular, from time to time to delegate any of the powers of the Board in the course of the current business of the Foundation to any Standing or Special Committee, or to any officers or agents, and to appoint any persons to be agents of the Foundation with such powers (including the power to sub-delegate), and upon such terms as may be thought fit.

EIGHTH: The Chairman of the Board of Trustees each year shall appoint the following Standing Committees and may appoint such Special Committees as the Chairman may from time to time determine: Committee on Trustees, Budget, Audit & Finance Committee, Investment Committee, Development Committee, Plant & Facilities Committee, Academy Oversight Committee, and College Oversight Committee.

NINTH: To authorize debt, including bank credit lines, short-term borrowings, capital leases, or issuance of bonds to finance operations or acquisitions of facilities and equipment.

TENTH: To engage external auditors to perform the annual financial audit of the Foundation.

Each of the standing committees shall consist of a chairman, who shall be a Trustee, appointed by the Chairman of the Board and such other members who need not be Trustees, as may be determined by the Chairman of the Board and the chairman of the committee.

The Chairman of the Board may, from time to time, appoint such members of the Board of Trustees and nonmembers of the Board of Trustees to the Standing Committees as well as any Special Committees as the Chairman may deem desirable.

APPOINTMENT AND ADMINISTRATION OF EXECUTIVE COMMITTEE

23. The Executive Committee shall consist of up to eleven (11) members, and shall be determined as follows:

A. The Chairman of the Board, the Vice Chairman of the Board and the Second Vice Chairman of the Board, if any, shall automatically be members of the Executive Committee by virtue of their positions as Chairman, Vice Chairman and Second Vice Chairman. The Vice Chairman of the Board shall act as Chairman of the Executive Committee. The Second Vice Chairman of the Board, if any, shall act as Chairman of the Executive Committee in the absence of the Vice Chairman.

B. The Chairmen of the Standing Committees shall automatically be members of the Executive Committee by virtue of their positions as Chairmen of such Standing Committees. The Chairman of the Board shall select such other members of the Board of Trustees to serve on the Executive Committee, provided the maximum number serving shall be limited to eleven (11), including the Chairman, the Vice Chairman and the Second Vice Chairman, if any. The incumbent President of Valley Forge Military Academy and College shall be an ex officio, nonvoting, member of the Executive Committee.

C. During intervals between meetings of the Board, the Executive Committee shall exercise the functions and responsibilities of the Board of Trustees in such manner as they determine best for the interest of the Foundation in all cases in which specific directions shall not have been given by the Board of Trustees to them. A majority of the members of the Executive Committee, in person or by proxy, shall constitute a quorum for meetings of the Executive Committee, and their decision shall be binding upon the Committee. The Committee may fix its own rules of procedure and shall meet or otherwise communicate as provided by such rules. All actions by the Executive Committee shall be reported to the Board of Trustees at the next succeeding meeting of the Board of Trustees for ratification or approval and shall be subject to revision or alteration by the Board of Trustees, provided that rights of third parties shall not be affected by such revision or alteration.

POWERS AND RESPONSIBILITIES OF COMMITTEES

24. Powers and responsibilities are assigned to the Executive Committee and the Standing Committees as listed below:

A. Executive Committee

1) Exercise functions and responsibilities of the Board of Trustees during intervals between the meetings of the Board in all cases in which specific directions shall not have been given by the Board of Trustees to the Committee; expedite transaction of business between meetings of the Board.

The Executive Committee shall have authority to act on behalf of the Board of Trustees on all matters except for those matters which have specifically been reserved for the full Board or the Members by the By-Laws.

a) The Executive Committee's main purpose is to strengthen the Board's performance by helping it to function efficiently and effectively. Its broad powers shall be used only as necessary and appropriate on routine housekeeping business or on emergency matters that cannot or should not be delayed until the Board's next regularly scheduled meeting or until a special meeting of the Board can be called as specified in these By-Laws.

b) All actions by the Executive Committee shall be reported to the Board of Trustees for ratification or approval and shall be subject to revision or alteration by the Board of Trustees, provided that rights of third parties shall not be affected by such revision or alteration to the Board at its next meeting for ratification.

2) Serve as the Board's mechanism for overseeing the institutional planning process and progress toward goals and objectives.

3) Oversee the work of the Standing Committees. From time to time examine, evaluate and make recommendations regarding the Foundation Board, its composition, organization, size and membership; determine its committee structure and functions. Ensure that the Board fulfills its responsibilities.

4) From time to time, review and make recommendations to up-date existing By-Laws.

5) Acting for the full Board of Trustees, to conduct an annual performance review of the President between May and September of each year in accordance with Paragraph 22, THIRD of these By-Laws when the Chairman and Vice Chairman do not conduct an annual performance review of the President and provide a report to the Executive Committee. Monitor the President's morale, health and compensations.

6) Establish a subcommittee to discharge the Board's responsibilities relating to compensation of executive officers and governance matters, including, but not limited to:

- a) Assess annually the Board's performance and the performance of the Committees of the Board;
  - b) Review, assess and make recommendations to the Board regarding the size and composition of the Board;
  - c) Review, assess and make recommendations to the Board regarding corporate governance guideline, including Trustee responsibilities and qualification standards, and annual performance of the board and Committees;
  - d) Establish the individual compensation of the executive officers and any other executive or senior officers reporting directly to the President;
  - e) Approve goals relevant to the President;
  - f) Evaluate the performance of the President in light of the goals;
  - g) Establish base salary ranges and general levels of other compensation components for executive employees of the Foundation;
  - h) Periodically examine the compensation structure of the Foundation to determine that the Foundation is rewarding its executive and other personnel in a manner consistent with sound business practices of a not-for-profit educational institution;
  - i) Make recommendations to the Board with respect to incentive compensation plans for executive employees;
  - j) Review, assess and make recommendations to the Board with respect to the Code of Ethics and Conduct for the Foundation; and,
  - k) Review and consider approval of any terms and conditions for employment agreement, including the hiring and firing (when involving compensation beyond customary or standard amounts) for executive employees of the Foundation.
- 7) Have the ability to confirm or challenge the Budget, Audit and Finance Committee's recommendations concerning the independent auditors.
- 8) Receive a report from the Chairman and Vice Chairman regarding the results of the President's Annual Performance Review.

B. Committee on Trustees

- 1) Measure the Board's formal and informal organization yearly against the requirements of the institution's strategic plan and the Board's previous evaluation; help the Board determine desired Board composition in terms of influence, diversity and talents.
- 2) Populate the Board with able, dedicated trustees by maintaining a viable list of candidates and by cultivating top prospects; select and nominate candidates for the Board.
- 3) Review the performance of incumbent trustees, particularly those up for reelection, and oversee periodic reviews by the Board of its own performance; review the performance of Board officers annually.
- 4) Nominate officers of the Foundation.
- 5) Work with the Board Chair to establish and oversee the trustee orientation process.
- 6) Work closely with the Board Chair in planning retreats and suggesting other committees.
- 7) Recommend persons upon whom the title of Honorary Life Trustee may be conferred by the Board in accordance with Paragraph 38.

C. Budget, Audit & Finance Committee

- 1) Review draft operating and capital budgets and make appropriate recommendations for Board of Trustee approval.
- 2) Provide oversight in the execution of the current year budget and alert the Board of Trustees to potential deficits or unusual items of expenditure.
- 3) Review the management of the Foundation's operating funds from a propriety standpoint to ensure a balanced allocation among education, cadet and physical plant maintenance needs is achieved.
- 4) Ensure that a viable long-range financial plan is in place and maintained.
- 5) Review budget and financial policies; when appropriate, recommend changes to the Board of Trustees.
- 6) Review annual audit statements and report significant trends, changes or internal control weaknesses to the Board of Trustees; recommend acceptance of audited statements at fall meeting of the Board.

7) Ensure accounting system and related procedures are adequate to assure proper recording, accounting, reporting and the safeguarding of Foundation assets; recommend accounting and management system improvements as appropriate.

8) Recommend appointment/engagement of external auditor, to include definition of nature and scope of auditor's responsibilities.

9) Review the written policy on business conduct and potential conflicts; assure distribution to appropriate employees and investigate any major deviations to these policies.

#### D. Investment Committee

Oversee the investment of all funds of the institution, to include Endowed Funds, Baker Trust Restricted Funds, residual or other Restricted Funds, Pension Funds, Debt Sinking Funds and Operating Funds, and review all outside security investments, performing the following in accomplishment of this:

1) Monitor performance of the Foundation's investments against stated objectives.

2) Review the performance of all investment managers against the objectives and, if appropriate, recommend appointment or change.

3) Review, at least annually, the Foundation's investment goals and guidelines and, as appropriate, recommend asset allocation changes to the Board of Trustees.

4) Report semi-annually to the Board of Trustees on the status of the various funds invested, to include statements of assets income and performance.

5) Review and make recommendations regarding endowment goals and annual income available for operations from endowments.

#### E. Development Committee

Ensure the operation of a vigorous and appropriate fund-raising program for the institution, addressing four component roles:

1) Ensure that fund-raising efforts align clearly with mission statement developed by the Board of Trustees:

a) Insist that the institution have a clear statement of mission and a current statement of priorities

b) Set institutional policies and guidelines for fund-raising

2) Understand the need for fund-raising and have the ability to educate and encourage other board members to participate in raising funds:

a) Develop understanding of the role fund-raising plays in the life of the institution

b) Educate and encourage board members to participate in fund-raising

3) Monitor the operation of the development program, including budget, staff and use of fund-raising counsel:

a) Help evaluate the development staff and budget

b) Assist in making the most effective use of fund-raising counsel

4) Undertake the process of soliciting gifts, helping to set goals appropriate for board members themselves:

a) Help set goals for board member giving

b) Identify, evaluate and assign gift prospects

#### F. Plant and Facilities Committee

1) On a broad basis, oversee the institution's land, buildings and equipment

2) Ensure the adequacy and condition of land, buildings and equipment required to operate the institution.

3) Monitor the development, currency and planning for a comprehensive facilities-management program by the Post Engineer, including for regular maintenance of, facilities policies for near and long-term guidance on use of existing plant, plans for future land-use and space requirements

4) See that institution has in place plans for renewal, replacement or removal of components of the physical plant

5) Monitor the integration of facilities management with academic, financial and human resource planning

#### G. Academy Oversight Committee

1) The primary responsibility of the Academy Oversight Committee shall be policymaking for VFMA and oversight of the management of the Academy's resources.

2) The Academy Oversight Committee should recognize and accept the following responsibilities:

a) Periodically review, approve and advocate for the Academy's mission statement.

b) In conjunction with the President of Valley Forge Military Academy & College (VFMAC), select the Dean of the Academy, Valley Forge Military Academy, to lead the Academy.

c) In conjunction with the President of VFMAC, support and monitor the Dean of the Academy's performance and establish and review the Dean of the Academy's compensation.

d) Charge the Dean of the Academy with the task of leading a strategic planning process, participate in and monitor that process, and approve the Academy's strategic plan.

Dean of the Academy

e) In conjunction with the Board of Trustees, periodically assess the performance of the Academy Oversight Committee, its subcommittees and its members.

f) In conjunction with the Board of Trustees, ensure fiscal integrity, preserve and protect the Academy's assets for posterity, and see to it that the Academy has adequate resources to support its mission.

g) Ensure the educational quality of the Academy.

h) Ensure the Academy policies and processes are current, properly implemented, and managed well.

i) Ensure that policies, processes, and instruction are formulated and conducted in an atmosphere of academic freedom.

j) Conduct the Academy's business with the highest integrity and appropriate transparency.

3) The President of VFMAC and the Dean of the Academy of VFMA shall be *ex-officio* voting members of the Academy Oversight Committee.

#### H. College Oversight Committee

1) The primary responsibility of the College Oversight Committee shall be policymaking for Valley Forge Military College and oversight of the management of the College's resources.

2) The College Oversight Committee should recognize and accept the following responsibilities:

- a) Periodically review, approve and advocate for the College's mission statement.
- b) In conjunction with the President of Valley Forge Military Academy & College (VFMAC), select the Dean of Valley Forge Military College to lead the College.
- c) In conjunction with the President of VFMAC, support and monitor the Dean of the College's performance and establish and review the Dean of the College's compensation.
- d) Charge the Dean of the College with the task of leading a strategic planning process, participate in and monitor that process, and approve the College's strategic plan.
- e) In conjunction with the Board of Trustees, periodically assess the performance of the College Oversight Committee, its subcommittees, and its members.
- f) In conjunction with the Board of Trustees, ensure fiscal integrity, preserve and protect the College's assets for prosperity, and see to it that the College has adequate resources to support its mission.
- g) Ensure the educational quality of the College.
- h) Ensure that College policies and processes are current, properly implemented, and managed well.
- i) Foster an environment of independence within the College, such that policies, processes, and instruction are formulated and conducted in an atmosphere of academic freedom.
- j) Conduct the College Oversight Committee's business with the highest integrity and appropriate transparency.

3) The President of VFMAC and the Dean of VFMC shall be *ex-officio* voting members of the College Oversight Committee.

#### ELECTION OF OFFICERS OF THE BOARD

25. Officers of the Board of Trustees shall be elected at the Annual Meeting and shall serve for a one-year term from 1 July of the election year through 30 June of the following year or until their successors are duly elected and qualified, such officers to be as follows: Chairman, Vice Chairman (and an additional Vice Chairman [the "Second Vice Chairman"], at the discretion of the Chairman, and upon nomination by the Committee on Trustees and election by the Board), Secretary, Treasurer, and such other additional officers as the Board may from time to time determine. It shall be necessary for the Chairman, the Vice Chairman and the Second

Vice Chairman, if any, to be Trustees, but the Secretary or Treasurer may or may not be a Trustee.

*DUTIES OF CHAIRMAN OF THE BOARD*

26. The Chairman of the Board shall preside at all meetings of the Trustees; shall have general direction of the business of the Foundation; shall see that all orders and resolutions of the Board are carried into effect; shall execute bonds, mortgages and other contracts requiring a seal, under the seal of the Foundation.

27. The Chairman of the Board shall have general superintendence and direction of all the other officers of the Foundation, and shall see that their duties are properly performed.

28. The Chairman of the Board shall submit a report of the operations of the Foundation for the fiscal year to the Trustees at the Annual Meeting, and from time to time shall report to the Board all matters within the Chairman's knowledge which the interests of the Foundation may require to be brought to their notice.

29. The Chairman of the Board shall be ex officio a member of all Standing Committees and Special Committees and shall have the general powers and duties of supervision and management usually vested in the office of a President of a Corporation.

*DUTIES OF VICE-CHAIRMEN OF THE BOARD*

30. A. Vice Chairman. The Vice Chairman shall serve as Chairman of the Executive Committee, and shall be vested with such powers and required to perform such duties as the Board of Trustees may determine. In the absence of the Chairman of the Board, the Vice Chairman shall have all of the powers and duties of the Chairman of the Board.

B. Second Vice Chairman. The Second Vice Chairman, if any, shall be vested with such powers and shall be required to perform such duties as the Chairman may determine. In the absence of the Chairman and Vice Chairman of the Board, the Second Vice Chairman shall have all of the powers and duties of the Chairman or Vice Chairman, as the case may be.

*DUTIES OF THE SECRETARY*

31. The Secretary shall keep or supervise the keeping of minutes of all annual, regular and special meetings of the Board of Trustees. The Secretary shall attend all meetings of the Board, and record all votes and the minutes of all proceedings in a book to be kept for that purpose. The Secretary shall give, or cause to be given, notice of all meetings of the Board of Trustees, and shall perform such other duties as may be prescribed by the Chairman of the Board, under whose supervision the Secretary shall be. The Secretary shall keep in safe custody the seal of the Corporation, and when authorized by the Board, affix the seal to any instrument requiring the same, and the seal, when so affixed, shall be attested by the Secretary or the Treasurer.

*DUTIES OF THE TREASURER*

32. The Treasurer shall be responsible for accepting, on behalf of the Board, the annual audited financial statements and management report from the external auditor and providing an annual report to the Board on the financial condition of the Foundation.

*DUTIES OF OFFICERS MAY BE DELEGATED*

33. In case of the absence of any officer of the Foundation or for any other reason that the Board may deem sufficient, the Board may delegate the powers or duties of such officer to any other officer, or to any Trustee for the time being; provided, a majority of the entire Board as then constituted concur therein.

*REMOVAL OF OFFICERS OR AGENTS*

34. Any officer or agent elected or appointed by the Board of Trustees may be removed by the Board of Trustees, whenever in its best judgment the best interest of the Foundation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

*TRUSTEES AND OFFICERS MAY RESIGN*

35. Any Trustee or any officer may resign at any time, such resignation to be made in writing to take effect from the time of its receipt by the Foundation, unless some time be fixed in the resignation, then from that date. The acceptance of a resignation shall not be required to make it effective.

*TRUSTEE AND OFFICER VACANCIES*

36. If there is a Trustee vacancy or if the office of any Trustee, or of the Chairman of the Board, Vice-Chairmen of the Board, Second Vice Chairman of the Board, if any, Secretary or Treasurer becomes vacant by reason of death, resignation or disqualification or otherwise, the remaining Trustees, though less than a quorum, by a majority vote, may choose a successor or successors who shall hold office for the unexpired term, or until his successor is elected and qualifies.

*REMOVAL OF TRUSTEES*

37. The Board of Trustees may remove someone as Trustee if declared of unsound mind by an Order of Court, or convicted of felony, or for any other proper cause, or if, within sixty days after notice of a Trustee's election, such Trustee does not signify a willingness to serve.

HONORARY LIFE TRUSTEE

38. The Board of Trustees may, upon the recommendation of the Committee on Trustees, confer upon any person, and particularly upon past trustees, that title of Honorary Life Trustee, which shall be a ceremonial only title, based upon that person's distinctive service to the Board and/or significant contributions to the advancement of the welfare of Valley Forge Military Academy and College. This ceremonial title of Honorary Life Trustee, shall not have any voting rights nor shall such Honorary Life Trustee be entitled to attend or participate in any executive session and/or confidential meetings of the Board of Trustees nor be entitled to the meeting minutes or other confidential documents which have been reviewed, created or distributed, including but not limited to any meeting minutes related to executive session by the Board of Trustees. The Honorary Life Trustee shall be invited to attend the general session of any Board of Trustees meetings and also encouraged to attend such other activities and functions to which Trustees are generally invited.

ALUMNI ASSOCIATION

39. The Valley Forge Military Academy and College Alumni Association (the "Alumni Association") was formed many years ago to promote the welfare of Valley Forge Military Academy and College (the "Academy and College") and the establishment of a mutually beneficial relationship between the Academy and College and its alumni.

40. The Constitution and By-Laws of the Alumni Association are hereby adopted by the Foundation and incorporated in these By-Laws by reference. The incorporation of the Alumni Association into the Foundation was formalized by a separate agreement dated May 14, 1993 (the "Incorporation Agreement"). The continued relationship between the Alumni Association and the Foundation shall be governed in accordance with the Incorporation Agreement. The references in these By-Laws to defined terms shall have the same meanings in these By-Laws as in the Incorporation Agreement. The amendment of the Constitution and By-Laws of the Alumni Association shall be subject to ratification by the Board of the Foundation. Further, the amendment of the By-Laws of the Foundation, relating to the Alumni Association, shall be subject to ratification by the Board of Directors of the Alumni Association.

41. The Foundation shall, from time to time, provide the Alumni Association with office space, personnel (including the Staff Officer), supplies and such other support as the President of the Academy and College deems reasonably necessary for the Alumni Association to operate and to fulfill its intended purposes.

42. The Foundation shall establish an account on its books for the exclusive use of the Alumni Association (the "Account"), in the name of the Alumni Association, into which monies (the "Funds") generated by the Alumni Association from its activities will be recorded, the Funds actually being deposited into the general operating bank account of the Foundation. The Alumni Association shall provide a complete accounting of all receipts to the Foundation. The use of the Funds recorded in the Account shall be at the discretion of the Alumni Association; provided, however, at no time shall the Funds be used for purposes which would adversely affect

the status of the Foundation under Section 501 (c) (3) of the Internal Revenue Code of 1986, as amended, or any successor provision thereto; or, the laws of the Commonwealth of Pennsylvania; or, the Articles of Incorporation or the By-Laws of the Foundation; and, will not be used for illegal, immoral, unethical or any other purposes which may be detrimental to the goals or objectives of the Foundation, or the Academy and College, as determined by the President of the Academy and College.

#### AMENDMENT OF BY-LAWS

43. The Board of Trustees, by the affirmative vote of a majority of Trustees, may alter or amend these By-Laws at any Regular Meeting or Annual Meeting of the Board or at any Special Meeting of the Board, provided that notice of the proposed alteration or amendment has been given to each Trustee.

#### INDEMNIFICATION OF TRUSTEES, OFFICERS, ETC.

44. Limitation of Personal Liability of and Duty to Indemnify Trustees. A Trustee shall not be personally liable for monetary damages for any action taken or any failure to take any action, and a Trustee shall be indemnified and defended by the Foundation for any such damages, including reasonable attorneys' fees and expenses, unless:

- (a) Such Trustee has breached or failed to perform the duties of his or her office as defined in Section 45 below; and
- (b) The breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

The provisions of this Section 44 shall not apply to (i) the responsibility or liability of a Trustee pursuant to any criminal statute; or (ii) the liability of a Trustee for the payment of taxes pursuant to local, state or federal law.

#### 45. Standard of Care and Justifiable Reliance.

(a) A Trustee of the Foundation shall stand in a fiduciary relationship to the Foundation, and shall perform his or her duties as a Trustee, including his or her duties as a member of any committee of the Board upon which he or she may serve, in good faith, and in a manner he or she reasonably believes to be in the best interest of the Foundation, and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his or her duties, a Trustee shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

- (i) One or more officers or employees of the Foundation whom the Trustee reasonably believes to be reliable and competent in the matters presented;

(ii) Counsel, public accountants or other persons as to the matters which the Trustee reasonably believes to be within the professional or expert competence of such person;

(iii) A report or recommendation of a committee of the Board upon which he or she does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee report or recommendation the Trustee reasonably believes to merit confidence.

A Trustee shall not be considered to be acting in good faith if he or she has knowledge concerning the matter in question that would cause his or her reliance under subparagraph (i), subparagraph (ii) or subparagraph (iii), above, to be unwarranted.

(b) In discharging the duties of their respective positions, the Board, committees of the Board and individual Trustees may, in considering the best interests of the Foundation, consider the effects of any action upon employees, upon persons with whom the Foundation has business and other relations and upon communities in which the offices or other establishments of or related to the Foundation are located, and all other pertinent factors. The consideration of those factors shall not constitute a violation of subsection (a) of this Section.

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

46. Indemnification in Third Party Proceedings. The Foundation shall have the power to indemnify and defend any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or proceeding (hereinafter, "Action"), whether civil, criminal, administrative or investigative other than an Action by or in the right of the Foundation, by reason of the fact that he or she is or was a Representative of the Foundation, or is or was serving at the request of the Foundation as a Representative of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or any other enterprise, against expenses (including reasonable attorneys' fees), judgments, fines and amounts paid in settlement actually incurred by him or her in connection with the action or proceeding if, in the opinion of the Board as determined in accordance with the provisions of Section 49, he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Foundation and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action or proceeding by judgment, order, settlement or conviction or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that the person did not act in good faith and in a manner that he or she reasonably believed to be in, or not opposed to, the best interests of the Foundation and, with respect to any criminal proceeding, had reasonable cause to believe that his or her conduct was unlawful.

47. Indemnification and Derivative Actions. The Foundation shall have power to indemnify any person who was or is a party defendant, or is threatened to be made a party defendant, to any threatened, pending or completed Action by or in the right of the Foundation to procure a

judgment in its favor by reason of the fact that he or she is or was a Representative of the Foundation or is or was serving at the request of the Foundation as a Representative of another domestic or foreign corporation for profit or not for profit, partnership, joint venture, trust or other enterprise, against expenses (including reasonable attorneys' fees) actually incurred by him or her in connection with the defense or settlement of the Action if, in the opinion of the Board as determined in accordance with the provisions of Section 49, he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Foundation. Indemnification shall not be made under this Section in respect of any claim, issue or matter as to which the person has been adjudged to be liable to the Foundation unless and only to the extent that the court of common pleas of the judicial district embracing the county in which the registered office of the Foundation is located or the court in which the Action was brought determines upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses that the court of common pleas or other court shall deem proper.

48. Mandatory Indemnification. Notwithstanding any contrary provision in the Articles of Incorporation, as amended from time to time, or these By-Laws, to the extent that a Representative of the Foundation has been successful on the merits or otherwise in defense of any Action or proceeding referred to in Section 46 (relating to Third Party Proceedings) or Section 47 (relating to Derivative Actions) or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including reasonable attorneys' fees) actually incurred by him or her in connection therewith.

49. Determination of Entitlement to Indemnification. Unless ordered by a court, any indemnification under Section 46 (relating to Third Party Proceedings) or under Section 47 (relating to Derivative Actions) shall be made by the Foundation only as authorized in the specific case upon a determination that indemnification of the Representative is proper under the circumstances because he or she has met the applicable standard of conduct set forth in those sections. Such determination shall be made:

(a) by a majority vote of a quorum of the Board consisting of Trustees who were not party to the action or proceeding; or

(b) if such a quorum is not attainable or, even if attainable, if a majority vote of a quorum of disinterested Trustees so directs based upon independent legal counsel in a written opinion.

50. Advancing Expenses. Expenses (including reasonable attorneys' fees) incurred in defending any Action or proceeding may be paid by the Foundation in advance of the final disposition of the Action or proceeding upon written request by or on behalf of the indemnified party to advance such expenses unless it is determined by the Board, in good faith, that he or she is not entitled to be indemnified by the Foundation as authorized in Section 44 through Section 46 above.

51. Indemnification of Former Trustee. The Foundation shall provide indemnification for former Trustees in the same manner as provided in these By-Laws for current Trustees of the Board. Each such indemnity may continue as to a person who has ceased to be a Trustee of the Foundation and may inure to the benefit of the heirs, executors and administrators of such person.

52. Insurance. The Foundation shall purchase and maintain insurance on behalf of any person who was or presently is or hereafter becomes a Trustee of the Foundation or who presently or hereafter is serving at the request of the Foundation as a Representative of another foundation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Foundation would have the power to indemnify him or her against such liability. If such insurance is not obtained or obtainable at a reasonable cost, as determined by the Board, each such Representative shall be given written notice to that effect.

53. Reliance on Provisions. Each person who shall act as an authorized Representative of the Foundation shall be deemed to be doing so in reliance upon the rights of indemnification provided for herein.

54. Definition of Representative. "Representative" as used in those Sections relating to indemnification of Trustees, Officers and etc. shall include any current Trustee, former Trustee, Officer of the Board, committee member of the Board or former Officer or committee member of the Board.

55. Indemnification Exclusion. Notwithstanding anything in Paragraphs 44 through 54, inclusive, to the contrary, the Foundation shall not indemnify anyone who is being sued by the Foundation.

#### DISCLOSURE OF CONFLICT OF INTEREST

56. Each Trustee and Officer shall disclose to the Board all the material facts concerning his or her relationship with or interest in any person, firm, corporation or other entity with whom the Foundation has, or proposes to enter into, any contract or other transaction which may, directly or indirectly, result in financial gain or advantage to such member by reason of such relationship or interest at a minimum on a yearly basis. Additionally, where applicable, all trustees are required to disclose potential conflicts of interest not later than when the potential conflict becomes a matter of Board action. Failure to make such a disclosure may be cause for the removal of such Trustee and Officer. The Executive Committee shall have the responsibility to review the information included in the aforementioned disclosure statements.

#### TRUSTEE ETHICS POLICY

57. Each Trustee and Officer of VFMA Foundation shall preserve and, if possible, act to enhance the assets and reputation of the Foundation, shall diligently promote the Foundation's

interests and shall develop ways for the Foundation to grow in quality and reputation. They shall perform their responsibilities in accordance with the highest precepts of business and education integrity, good business practice and compliance with the law.

58. Each Trustee and Officer shall avoid actual or perceived conflicts of interest and shall disclose certain relationships or interests as described in Section 56 above, bearing in mind the responsibility of Trustees and Officers to make decisions without favor or preference to third parties but solely on the basis that the decision is in the best interest of the Foundation.

59. Contracting for goods and services and the obligation or expenditure of funds shall be executed on the basis of Trustee Committee or Board action and decision, rather than on individual Trustee action or decision.

60. It is the Foundation's policy to comply with all federal, state and local laws applicable to the Foundation and VFMA&C.