

BY-LAWS OF WHITE HERON THEATRE COMPANY

Adopted: April 11, 2015

Amended: May 15, 2016

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BYLAWS OF WHITE HERON THEATRE COMPANY
A Massachusetts Nonprofit Corporation

ARTICLE I – GENERAL

Section 1. Name. The name of this corporation is **WHITE HERON THEATRE COMPANY**.

Section 2. Principal Office. The principal office for the transaction of the activities and affairs of this corporation is located at 5 North Water Street, Nantucket, Massachusetts, 02554. The Board of Directors may at any time change the location of the principal office and establish branch or subordinate offices at any place or places where this corporation is qualified to conduct its activities.

Section 3. Purpose. This corporation is organized exclusively for charitable, performing arts, and educational purposes, including for such purposes the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code.

Section 4. Governance By Board of Directors. Subject to the provisions and limitations of the Massachusetts Nonprofit Corporation Law, the corporation’s activities and affairs shall be governed and all corporate powers shall be exercised, by or under the direction of the Board of Directors.

ARTICLE II – BOARD OF DIRECTORS

Section 1. Powers of Board. Without prejudice to the general powers set forth in these Bylaws, but subject to the same limitations, the Board shall have the power to do the following:

(a) Appoint and remove, at the pleasure of the Board, the President; prescribe powers and duties for him or her as are consistent with the law, the Articles of Incorporation, and these Bylaws; fix his or her compensation; and require faithful service.

(b) Borrow money and incur indebtedness on the corporation’s behalf and cause to be executed and delivered for the corporation’s purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, and other evidences of debt and securities.

Section 2. Qualifications of Directors. Each Director shall be an “Independent Director” within the meaning of Nonprofit Corporation Law. The Directors of the White Heron Theatre Company [WHTC] shall be persons of high repute and standing in their communities and shall broadly represent the arts, business and communities, which are inclusive and representative of the interests, goals and objectives of the corporation. Directors shall actively participate in Board and committee meetings and provide strong leadership, financial support and guidance to WHTC.

Section 3. Number and Term of Office. The Board of Directors shall consist of at least nine but no more than twenty-one Directors unless changed by amendment to these Bylaws. The exact number of Directors shall be fixed, within those limits, by a resolution adopted by the Board of Directors. Each Director shall hold office for a three-year term and with an unlimited number of terms.

Section 4. Nominations. The Governance Committee shall nominate qualified candidates for election to the Board at least fifteen (15) days before the Annual Meeting, or at such other time as

the Board may set, and the Secretary shall forward to each member, with the notice of meeting required by these Bylaws, a list of all candidates nominated by the committee.

Section 5. Vacancies. A vacancy or vacancies on the Board of Directors shall occur in the event of (a) the death or resignation of any Director; (b) the declaration by resolution of the Board of a vacancy in the office of a Director who has been found to have acted in violation to WHTC's Bylaws or in an interest contrary of the corporation (c) the increase of the authorized number of Directors.

Except for a vacancy created by the removal of a Director, vacancies on the Board may be filled by approval of the Board or, if the number of Directors then in office is less than a quorum, by (a) the unanimous written consent of the Directors then in office, (b) the affirmative vote of a majority of the Directors then in office at a meeting held according to notice or waivers of notice complying with Corporations Code, or (c) a sole remaining Director.

Section 6. Resignations. Except as provided below, any Director may resign by giving written notice to the Chair of the Board or the Secretary of the Board. The resignation shall be effective when the notice is given unless it specifies a later time for the resignation to become effective. If a Director's resignation is effective at a later time, the Board may elect a successor to take office as of the date when the resignation becomes effective. Except on notice to the Massachusetts Attorney General, no Director may resign if the corporation would be left without a duly elected Director or Directors. Any reduction of the authorized number of Directors shall not result in any Director being removed before his or her term of office expires.

Section 7. Meetings. Meetings of the Board shall be held at any place within or outside Massachusetts that has been designated by resolution of the Board.

Section 7.1 General Meetings. Any Board meeting may be held by conference telephone, video screen communication, or other communications equipment. Participation in a meeting under this Section shall constitute presence in person at the meeting if all of the following apply:

(a) Each Director participating in the meeting can communicate concurrently with all other Directors.

(b) Each Director is provided the means of participating in all matters before the Board, including the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

(c) The Board has adopted and implemented a means of verifying both of the following:

(1) A person participating in the meeting is a Director or other person entitled to participate in the Board meeting.

(2) All actions of or votes by the Board are taken or cast only by the Directors and not by persons who are not Directors.

(d) Each Director must not be absent from more than three consecutive meetings to remain in good standing.

Section 7.2 Annual Meeting. The Board shall hold an Annual Meeting for purposes of organization, election of new and renewing Directors, election of officers, setting the annual budget for the following fiscal year, determining a meeting schedule and locations for the following year and transaction of other business.

Section 7.3 Special Meetings. Special meetings of the Board for any purpose may be called at any time by the Chair of the Board, the Secretary, or any two Directors.

Section 8. Notice. Notice of the time and place of meetings shall be given to each Director at least 48 hours before the time set for the meeting. All such notices shall be given or sent to the Director's address, electronic mail, or telephone number as shown on the corporation's records. The notice shall state the time of the meeting and the place, if the place is other than the corporation's principal office. The notice need not specify the purpose of the meeting.

Section 8.1 Waiver of Notice. Notice of a meeting need not be given to any Director who, either before or after the meeting, signs a waiver of notice, a written consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice or consent need not specify the purpose of the meeting. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meetings. Notice of a meeting need not be given to any Director who attends the meeting and who, before or at the beginning of the meeting, does not protest the lack of notice to him or her.

Section 9. Quorum. A majority of the authorized number of Directors shall constitute a quorum for the transaction of any business except adjournment. Every action taken or decision made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be an act of the Board. A meeting at which a quorum is initially present may continue to transact business, despite the withdrawal of some Directors, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

Section 10. Adjournment. A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given unless the original meeting is adjourned for more than 24 hours. If the original meeting is adjourned for more than 24 hours, notice of any adjournment to another time and place shall be given, before the time of the adjourned meeting, to the Directors who were not present at the time of the adjournment.

Section 11. Action Without A Meeting. Any action that the Board is required or permitted to take may be taken without a meeting if all Directors consent in writing to the action. The consent of any Director who has a material financial interest in a transaction to which the corporation is a party, an "Interested Director," shall be required to recuse himself or herself from the discussion. Such action by written consent shall have the same force and effect as any other validly approved action of the Board. All such consents shall be confirmed and filed with the minutes of the proceedings of the next Board meeting.

ARTICLE III – COMMITTEES

Section 1. Designation of Committees. The Board, by resolution, may create one or more committees, each consisting of two or more Directors and may include non-Directors, to serve at the pleasure of the Board. The Board may appoint one or more Directors as alternate members of any such committee, who may replace any absent member at any meeting. Any such committee shall advise, present and propose recommendations to the Board. No such committee shall have the authority to bind WHTC or take any final action on any matter that, under the Massachusetts Nonprofit Corporation Law, also requires approval of the Directors or approval of a majority of all Directors

Minutes of each meeting may be kept and forwarded to the Chair or the Secretary. The Board may adopt rules for the governance of any committee as long as the rules are consistent with these Bylaws. If the Board has not adopted rules, the committee may do so.

Section 2. Committee Chair. The Chair of the Board of Directors, with the approval of the Board, shall appoint all committee Chairs for the ensuing year at, or within a reasonable time after, the Board's Annual Meeting. If the Board establishes a new committee by resolution at a meeting other than the Board's Annual Meeting, the Chair, with the Board's approval, shall

similarly appoint the new committee Chair at the time the committee is established, or within a reasonable time after its establishment.

Section 3. Committee Meetings. Meetings of committees of the Board of Directors may be called by the respective Chairs thereof or by any two (2) or more members of the committee. At all meetings of any committee, a majority of the members of the committee shall constitute a quorum for the transaction of business, except as may be otherwise specifically provided for by these Bylaws.

Section 4. Executive Committee. Each year, at its Annual Meeting, the Board of Directors shall designate an Executive Committee consisting of the Chair, Vice Chair, Secretary and Treasurer of the Board of Directors, as well as the President and the Artistic Director of the corporation.

Section 5. Finance Committee. The Board of Directors shall designate, at or within a reasonable time after the Annual Meeting, a Finance Committee. In addition to such other matters as may from time to time be delegated to it by the Board, the Finance Committee shall:

5.1. Oversight. Provide oversight to all asset management and stewardship issues, maintain or cause to be maintained data with respect to WHTC's financial condition, and periodically report to the Board of Directors thereon.

5.2 Budget. Review and recommend the annual operating budget for WHTC.

5.3 Monitor Financial Activities. Monitor actual financial activities in comparison to the operating budget and financial plan approved by the Board of Directors.

5.4 Major Projects. Review from a financial perspective any major projects introduced during the year.

5.5 Recommend Investment Policy. Recommend to the Board of Directors for approval: a) investment policies, b) investment strategy and asset allocation parameters and c) selection, retention, termination of investment managers, as well as review and monitor investment performance.

5.6 Recommend Service Providers. Review and recommend providers of services for financial and fiduciary management, including but not limited to, the firm to be employed as WHTC's independent auditor. The Finance Committee shall review the auditor's compensation, the scope and terms of the audit and the auditor's independence.

5.7 Review Independent Audit. Review and discuss with the independent auditor the result of each annual audit, including, but not limited to, any material risks and weaknesses in internal controls identified by the auditor, any restrictions on the scope of the auditor's activities or access to requested information, any significant disagreements between the auditor and management and the adequacy of internal accounting and financial reporting processes.

5.8 Compliance with Annual Statement Regarding Conflicts of Interest. Prepare, or cause to be prepared, in consultation with the independent auditor, if any, the Annual Statement called for by WHTC's Conflict of Interest Policy; and furnish the Statement to those individuals required to complete and return it by January 31st of each year.

Section 6. Governance Committee. The Board of Directors shall designate, at or within a reasonable time after the Annual Meeting, a Governance Committee. In addition to such other matters as may from time to time be delegated to it by the Board, the Governance Committee shall:

6.1 Propose Directors and Officers. Identify and solicit potential Directors of high integrity, who are interested in preserving WHTC's heritage and furthering its mission. The Committee

shall be responsible for proposing persons for election as Directors at the Annual Meeting and, in the event of a vacancy between Annual Meetings, for proposing replacement Directors for election. Also, the Committee shall recommend a slate of Officers for approval at the Annual Meeting.

6.2 Bylaws and Corporate Governance. Annually review the corporation's Bylaws and corporate governance; make recommendations and propose changes for approval by the Board of Directors.

6.3 Board Composition. Annually review the composition of the Board of Directors with respect to such factors as gender, ethnicity, age, industry representation, geographic distribution and areas of expertise so as to propose persons for election as Directors who fit the needs of the corporation.

6.4 Conflict of Interest. Annually review WHTC's Conflict of Interest Policy and recommend other policies and procedures to ensure good corporate governance, such as Board training and education, codes of conduct, etc.

Section 7. Development Committee. The Board of Directors shall designate, at or within a reasonable time after the Annual Meeting, a Development Committee. In addition to such other matters as may from time to time be delegated to it by the Board, the Development Committee shall:

Section 7.1 Fundraising. Oversee the formulation and implementation of WHTC's fundraising policies. Work in accord with the Finance Committee to set the annual budget fundraising goals.

Section 7.2 Identification and Solicitation of Gifts. Identify and secure funding for WHTC's programs, ensuring that WHTC's fundraising strategy is aligned with its mission and planning priorities as approved by the majority of Directors, to include identifying prospects, setting goals for Board member's financial gifts, and soliciting and monitoring all gifts.

ARTICLE IV – OFFICERS

Section 1. Number. The officers of this corporation shall be a Chair, Vice Chair, a Secretary, and Treasurer. The corporation, may modify these positions at the Board's discretion, under these Bylaws. Any number of offices may be held by the same person, except that neither the Secretary nor the Treasurer may serve concurrently as the Chair of the Board.

Section 2. Term of Office & Qualifications. The officers of this corporation, except any appointed under these Bylaws, shall be chosen tri-annually by the Board of Directors and shall serve at the pleasure of the Board. An officer, with approval of the Board, may renew his or her position annually, after he or she completed one three-year term.

The Board may appoint and authorize the Chair of the Board, or another officer to appoint any other officers that the corporation may require. Each appointed officer shall have the title and authority, hold office for the period, and perform the duties specified in the Bylaws or established by the Board.

Section 3. Removal of Officers. Without prejudice to the rights of any officer the Board may remove any officer with or without cause. An officer who was not chosen by the Board may be removed by any other officer on whom the Board confers the power of removal.

Section 4. Resignation. Any officer may resign at any time by giving written notice to the Board. The resignation shall take effect on the date the notice is received or at any later time

specified in the notice. Unless otherwise specified in the notice, the resignation need not be accepted to be effective. Any resignation shall be without prejudice to any rights of the corporation under any contract to which the officer is a party.

Section 5. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these Bylaws for normal appointments to that office, provided, however, that vacancies need not be filled on an annual basis.

Section 6. Chair. If a Chair of the Board of Directors is elected, he or she shall preside at Board meetings and shall exercise and perform such other powers and duties as the Board may assign from time to time.

Section 7. Vice Chair. In the absence or incapacity of the Chair, or if the office of Chair be vacant, the Vice Chair shall preside at all meetings of the Board and shall perform the duties and exercise the powers of the Chair. The Vice Chair shall have other such powers and shall perform other such duties as may be assigned by the Chair or the Board of Directors.

Section 8. Secretary. The Secretary shall keep or cause to be kept, at the corporation's principal office, a book of minutes of all meetings, proceedings, and actions of the Board. The minutes of meetings shall include the time and place that the meeting was held; whether the meeting was annual, general, or special, and, if special, how authorized; the notice given; the names of persons present at Board meetings.

The Secretary shall keep, or cause to be kept, at the corporation's principal office: (a) a copy of the Articles of Incorporation and Bylaws, as amended to date; (b) a record of the Board of Directors, showing each Director's name, address, electronic address, phone number, and term;. The Secretary shall give, or cause to be given, notice of all meetings, of the Board, and of committees of the Board that these Bylaws require to be given. The Secretary shall perform such other duties as the Board or the Bylaws may require.

Section 9. Treasurer. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the corporation's properties and transactions. The Treasurer shall give, or cause to be given, to the Directors such financial statements and reports as are required to be given by law, by these Bylaws, or by the Board. The books of account shall be open to inspection by any Director at all reasonable times.

The Treasurer shall (a) deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the corporation with such depositories as the Board may designate; (b) disburse, or cause to be disbursed, the corporation's funds as the Board may order; (c) render, or cause to be rendered, to the Chair of the Board, if any, and the Board, when requested, an account of all financial records.

Section 10. President. Subject to such supervisory powers as the Board may give to the Chair of the Board, if any, and subject to the oversight of the Board, the President shall be the general manager of the corporation and shall supervise, direct, and control the corporation's activities, affairs, and employees. The President shall perform transactions as Chief Financial Officer and of the financial condition of the corporation and have such other powers and duties as the Board or the Bylaws may require.

The President of WHTC shall, concurrent with the term of that position, serve *ex officio* as a Director, without a vote.

ARTICLE V – CONTRACTS & LOANS

Section 1. Contracts With Director. No Director of this corporation nor any other corporation, firm, association, or other entity in which one or more of this corporation's Directors are Directors or have a material financial interest, shall be interested, directly or indirectly, in any contract or transaction with this corporation, unless (a) the material facts regarding that director's financial interest in such contract or transaction or regarding such common Directorship, officership, or financial interest are fully disclosed in good faith and noted in the minutes, or are known to all members of the Board prior to the Board's consideration of such contract or transaction; (b) such contract or transaction is authorized in good faith by a majority of the Board by a vote sufficient for that purpose without counting the votes of the "Interested Directors;" (c) before authorizing or approving the transaction, the Board considers and in good faith decides after reasonable investigation that the corporation could not obtain a more advantageous arrangement with reasonable effort under the circumstances; and (d) the corporation for its own benefit enters into the transaction, which is fair and reasonable to the corporation at the time the transaction is entered into.

This Section does not apply to a transaction that is part of an educational or charitable program of this corporation if it (a) is approved or authorized by the corporation in good faith and without unjustified favoritism and (b) results in a benefit to one or more Directors or their families because they are in the class of persons intended to be benefited by the educational or charitable program of this corporation.

Section 2. Loans. This corporation shall not lend any money or property to or guarantee the obligation of any director or officer without the approval of the Massachusetts Attorney General; provided, however, that the corporation may advance money to a Director or officer of the corporation for expenses reasonably anticipated to be incurred in the performance of his or her duties if that director or officer would be entitled to reimbursement for such expenses by the corporation.

ARTICLE VI – INDEMNIFICATION & INSURANCE

Section 1. Indemnity. To the fullest extent permitted by law (except to the extent caused by bad faith or willful misconduct of a person who would otherwise be indemnified under this Section), this corporation shall indemnify its Directors', officers, employees, and other persons, including persons formerly occupying any such positions, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any "proceeding," as that term is used in that section, and including an action by or in the right of the corporation, by reason of the fact that the person is or was a person described in that section. "Expenses," as used in this bylaw, shall have the same meaning as in that section of the Corporations Code.

On written request to the Board by any person seeking indemnification hereunder, the Board shall promptly decide under whether the applicable standard of conduct has been met and, if so, the Board shall authorize indemnification. If the Board cannot authorize indemnification, because the number of Directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of Directors who are not parties to that proceeding, the Board shall promptly call a meeting of members. At that meeting, the members shall determine whether the applicable standard of conduct has been met and, if so, the members present at the meeting in person or by proxy shall authorize indemnification.

To the fullest extent permitted by law and except as otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification under these Bylaws in defending any proceeding covered shall be advanced by the corporation before final disposition of the proceeding, on receipt by the corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately found that the person is entitled to be indemnified by the corporation for those expenses.

Section 2. Disclosure of Indemnifications. Any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any officer or Director of the corporation under these Bylaws shall be disclosed in writing to all Directors.

Section 3. Insurance. This corporation shall have the right, and shall use its best efforts, to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, Directors, employees, and other agents, to cover any liability asserted against or incurred by any officer, Director, employee, or agent in such capacity or arising from the officer's, Director's, employee's, or agent's status as such.

ARTICLE VII – CONFLICT OF INTEREST

WHTC shall at all times maintain a Conflict of Interest Policy that, at a minimum, defines what a conflict is; requires disclosure to the Board of Directors of any actual or potential conflict by a Director or the President; directs the Board to decide if a true conflict of interest exists; and requires a conflicted Director to recuse himself or herself from voting on any transaction in which he or she has a conflict.

ARTICLE VIII – FISCAL POLICY

Section 1. Fiscal Year.

WHTC's fiscal year shall commence January 1st each calendar year and end on December 31st.

Section 2. Records. This corporation shall keep the following:

- (a) Adequate and correct books and records of account;
- (b) Written minutes of the proceedings of its Board.

Section 3. Inspection. Every Director shall have the absolute right at any reasonable time to inspect the corporation's books, records, documents of every kind, physical properties, and the records of each subsidiary. The inspection may be made in person or by the Director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents.

Section 4. Annual Report. The Board shall cause an Annual Report to be sent to the Directors within 120 days after the end of the corporation's fiscal year. That report shall contain the following information, in appropriate detail:

- a. The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year;
- b. The principal changes in assets and liabilities, including trust funds;
- c. The corporation's revenue or receipts, both unrestricted and restricted to particular purposes;
- d. The corporation's expenses or disbursements for both general and restricted purposes;
- e. Any information required by these Bylaws; and
- f. An independent accountants' report or, if none, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the corporation's books and records.

This requirement of an annual report shall not apply if the corporation receives less than \$25,000

in gross receipts during the fiscal year, provided, however, that the information specified above for inclusion in an annual report must be furnished annually to all Directors in writing.

Section 5. Compensation of Directors. Directors may not receive compensation, for their services as Directors or officers, but may receive reimbursement of expenses, as the Board may establish by resolution to be just and reasonable as to the corporation at the time that the resolution is adopted.

Section 6. Approval of Compensation. The Board of Directors shall approve in advance the amount of compensation for the President of WHTC.

Section 7. Dissolution. Upon dissolution of the organization, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the organization is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

Section 6. Net Earnings.

No part of the net earnings of the organization shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the organization shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of purposes set forth in the purpose clause hereof. No substantial part of the activities of the organization shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the organization shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of this document, the organization shall not carry on any other activities not permitted to be carried on (a) by an organization exempt from federal tax under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or (b) by an organization, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or corresponding section of any future tax code.

ARTICLE IX – AMENDMENTS

White Heron Theatre Company's Bylaws may be amended or repealed or added to, or new Bylaws may be adopted, subject to any limitation set forth in the Articles of Incorporation, by the Board of Directors.

CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting Secretary of White Heron Theatre Company, a Massachusetts Nonprofit Corporation; that these Bylaws, consisting of 13 pages, are the Bylaws of this corporation as adopted by the Board of Directors on April 11th, 2015, and that these Bylaws have been amended on the following dates:

Executed on April 11, 2015, at Nantucket, Massachusetts.

Amended on May 15, 2016

Amended on February 7, 2018

_____, Secretary

