

**BYLAWS**  
**OF**  
**DAVIS MEMORIAL GOODWILL INDUSTRIES**

**February 5, 2004**  
**Amended 04/28/05**

**TABLE OF CONTENTS**

<b>Section 1: General Provisions .....</b>	<b>1</b>
1.1 Certificate of Incorporation.....	1
1.2 Name .....	1
1.3 Purposes .....	1
1.4 Fiscal Year .....	1
1.5 Offices.....	1
1.6 Members .....	1
<b>Section 2: Board of Directors.....</b>	<b>2</b>
2.1 Powers.....	2
2.2 Number of Directors .....	2
2.3 Terms of Office.....	2
2.4 Appointment and Election of Directors .....	3
2.5 Resignation and Removal .....	3
2.6 Vacancies .....	3
<b>Section 3: Meetings of Board of Directors.....</b>	<b>4</b>
3.1 Regular, Special, and Annual Meetings.....	4
3.2 Meetings Using Communications Equipment .....	4
3.3 Quorum .....	4
3.4 Notice of Meetings.....	4
3.5 Waiver of Notice.....	5
3.6 Action without Meeting .....	5
3.7 Validation of Meetings Defectively Called or Noticed.....	5
<b>Section 4: Committees .....</b>	<b>6</b>
4.1 Executive Committee.....	6
4.2 Other Committees .....	6
4.3 Terms of Office.....	6
4.4 Committee Chair.....	6
4.5 Vacancies .....	7
4.6 Quorum .....	7
4.7 Rules .....	7
4.8 Attendance by Officers and President & Chief Executive Officer .....	7
4.9 Boards of Advisors .....	7

<b>Section 5: Officers</b> .....	7
5.1 Numbers and Qualifications .....	7
5.2 Election and Tenure .....	7
5.3 Appointment of Other Officers .....	7
5.4 Resignation and Removal .....	8
5.5 Chair and Vice Chair(s) .....	8
5.6 President & Chief Executive Officer .....	8
5.7 Secretary .....	9
5.8 Treasurer .....	9
5.9 Vacancies .....	10
<b>Section 6: Compensation and Personal Liability</b> .....	10
6.1 Compensation .....	10
6.2 Personal Liability .....	10
<b>Section 7: Miscellaneous Provisions</b> .....	10
7.1 Execution of Instruments .....	10
7.2 Corporate Records .....	11
7.3 Guarantees and Suretyships .....	11
7.4 Gifts.....	11
7.5 Non-Discrimination .....	11
7.6 Disposition of Assets .....	11
7.7 Headings and Titles.....	11
<b>Section 8: Indemnification</b> .....	11
8.1 Generally.....	11
8.2 Advances: Repayment .....	12
8.3 Authorization .....	12
8.4 Heirs, Executors and Administrators .....	13
8.5 Non-Exclusive Rights .....	13
8.6 Adverse Amendment .....	13
8.7 Employees and Agents.....	13
<b>Section 9: Amendments</b> .....	13

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**Section 1: General Provisions**

**1.1 Certificate of Incorporation**

These bylaws have been adopted pursuant to authority evidenced by the District of Columbia Certificate of Incorporation, dated June 3, 1935. In the event of any inconsistency between the Certificate of Incorporation and these Bylaws, the Certificate of Incorporation shall be controlling. All references in these Bylaws to the Certificate of Incorporation shall mean the Certificate of Incorporation as from time to time amended or amended and restated.

**1.2 Name**

The registered name of this corporation is Davis Memorial Goodwill Industries (the "Corporation"). The Corporation is authorized to do business under the name "Goodwill of Greater Washington" and/or such other names as the Board of Directors shall approve.

**1.3 Purposes**

The Corporation's mission is to educate, train, employ, and place people with disabilities, as well as those with disadvantages, creating a stronger workforce and a more vital community.

The Corporation is not organized for profit, nor shall any of its net earnings inure in whole or in part to private stockholders, members, employees, or other individuals.

No substantial part of the activities of the Corporation shall be devoted to influencing legislation, nor to participating in any political campaign on behalf of any candidate for public office.

**1.4 Fiscal Year**

The Corporation's fiscal year shall be the calendar year or such other period as shall be approved by the Board of Directors.

**1.5 Offices**

The principal office of the Corporation for the transaction of its business is located at 2200 South Dakota Avenue, N.E., Washington, D.C. The Board of Directors may change the principal office from one location to another within the District of Columbia. The Corporation may also have offices at such other places, within or without the District of Columbia, where it is qualified to do business, as its business may require and as the Board of Directors may from time to time designate.

**1.6 Members**

The Corporation shall have no members.

## Section 2: Board of Directors

### 2.1 Powers

The governance and direction of the Corporation shall be vested in a board of directors, which shall bear responsibility for and shall oversee all the activities of the Corporation (the “Board of Directors” or the “Board”). The Board of Directors shall exercise the powers of the Corporation, control its property, and conduct its affairs, except as otherwise provided by law. The Board shall take active responsibility for the sound and adequate financing of the Corporation’s programs and shall pursue fundraising on an ongoing basis, with the objective of raising operating and capital funds through the solicitation of cash and in-kind gifts and grants. The Board of Directors shall have exclusive power:

- To purchase or sell real property;
- To pledge, assign, or create liens on or security interests in the real or personal property of the Corporation;
- To establish or modify investment policies;
- To determine the overall policy of the Corporation;
- To appoint and remove the President & Chief Executive Officer of the Corporation;
- To establish Benefits Plan(s) for employees of the Corporation;
- To approve an annual budget for the Corporation; and
- To delegate, from time to time, powers to the President & Chief Executive Officer in accordance with these Bylaws.

### 2.2 Number of Directors

The Board of Directors shall consist of not less than three nor more than 30 individuals (excluding any *ex officio*, advisory and honorary directors). The number of directors may be increased or decreased from time to time by the Board of Directors within such limits. The President & Chief Executive Officer shall serve as an *ex officio* member of the Board with the right to attend, participate, and vote except with respect to any Board review of the performance or compensation of the President & Chief Executive Officer. The Chair of the WORC Advisor Board shall serve as an *ex-officio* member of the Board with rights to attend, participate in and vote at meetings of the Board of Directors. (Amended 04/28/05)

Any past Chair of the Board is eligible to serve as an *ex officio* member of the Board, with rights to attend and participate in Board meetings, for up to three years following the expiration of his/her term as Board Chair, but he/she shall not be counted toward a quorum and shall not have the power to vote. Upon the expiration of any such past Board Chair’s *ex officio* membership on the Board, such individual shall become a lifetime Honorary Director of the Corporation.

### 2.3 Terms of Office

Directors shall be elected to terms of up to three years with each such term expiring at an Annual Meeting of the Board. No director may be elected to a term that would result in more than six years and four months of continuous service on the Board. “Continuous service” shall mean service not interrupted by a break of more than one year.

The Corporation shall have three classes of directors: Class A, Class B, and Class C. The initial terms of office following the original adoption of these Bylaws for each class shall expire at the Annual Meeting of the Board of Directors in the following years:

<u>Class Year</u>	<u>Initial Term Expires</u>
A	2005
B	2006
C	2007

Any director serving on the Board at the time that these Bylaws are originally adopted may be elected to an additional one-year term, even if this would result in continuous service of more than six years and four months.

Any director serving as an officer at any time during the year immediately preceding an Annual Meeting may be elected at that meeting to one additional one-year term, even if this would result in continuous service of more than six years and four months.

#### **2.4 Appointment and Election of Directors**

Directors shall be elected by the Board of Directors of the Corporation at the Annual Meeting of such Board of Directors, but they may be elected at any Board meeting to fill vacancies occurring between such Annual Meetings. The candidates, up to the number of directors to be elected, receiving the highest number of votes shall be elected.

The Board of Directors may from time to time appoint to the position of advisory, or honorary director, such individuals as it may designate for terms of up to one year. Such directors may, pursuant to a resolution of the Board, have the right to attend meetings, but they shall not be counted toward a quorum and shall not have the power to vote. The Board, having elected or appointed any such director the Board, shall also have the power to remove any such director.

#### **2.5 Resignation and Removal**

A director may resign by delivering to the Chair or Vice Chair written notice of his/her resignation. Such resignation shall be effective upon receipt (unless specified to be effective at some other time) and acceptance thereof shall not be necessary to make it effective unless it so states. If the Board of Directors accepts the resignation of a director intended to take effect at a future time, the Board shall have the power to elect a successor to take office when the resignation shall become effective.

If any director shall fail to attend two consecutive meetings of the Board without excuse and, after having been notified by the Secretary of such failure to attend, shall be absent at the next regular meeting without an excuse for said absence acceptable to the Board, such director shall be deemed to have resigned unless the Board chooses to exercise its discretion to excuse such absence.

Any director may be removed with or without cause only in a meeting of the Board of Directors, with written notice (pursuant to Section 3.4) of the purpose of the meeting, by a majority vote of the directors then holding office.

#### **2.6 Vacancies**

Vacancies in the Board of Directors, whether occurring by reason of removal of a director or otherwise, may be filled by a majority of the remaining directors or by a sole remaining director, and each director so elected shall hold office until his or her successor is elected and qualifies.

A vacancy or vacancies shall be deemed to exist in case of the death, resignation, or removal of any director, if a director has been declared of unsound mind by an order of a court of competent jurisdiction or has been convicted of a felony, or if the number of directors is less than the authorized number of directors. No reduction of the number of directors shall have the effect of removing any director prior to the expiration of his or her term of office.

### **Section 3: Meetings of Board of Directors**

#### **3.1 Regular, Special, and Annual Meetings**

Regular meetings of the Board may be held at such times and places as the Board may determine, but at least quarterly. Special meetings may be called by the Chair at any time. Special meetings shall also be called by the Secretary or his/her designee upon written request of a majority of directors who specify in their request the business for which they desire the meeting to be called.

The Board shall designate a regular or special meeting of the Board each year to be the Annual Meeting. The Annual Meeting shall be held during the first 120 days of each calendar year to elect directors and conduct such other business as may come before the Board.

Unless otherwise required or provided by law, the Certificate of Incorporation, or these Bylaws, all actions of the Board, with the exception of amendments to the Certificate of Incorporation or to these Bylaws, shall be passed upon by a majority affirmative vote of the directors present and voting, provided that a quorum of the Board of Directors is in attendance or voting by duly executed and submitted proxy.

#### **3.2 Meetings Using Communications Equipment**

The Board of Directors may participate in a meeting of the Board by means of a conference telephone, videoconference, or similar means that permit all persons participating in the meeting to communicate with one another at the same time, and participation by such means shall constitute presence in person at a meeting.

#### **3.3 Quorum**

The presence in person or by proxy of a majority of the Board of Directors then in office shall constitute a quorum, but if only a lesser number is present, such lesser number may, without further notice, adjourn a meeting to any later time. If, at a meeting where a quorum has been present, sufficient directors leave so as to deprive the meeting of a quorum, any subsequent actions taken by a majority of directors present at that meeting shall nevertheless be actions of the Board.

#### **3.4 Notice of Meetings**

A notice stating the time and place of the meeting (regular, special, or annual) shall be sent to each director, not less than five and not more than 15 days prior to the date of the meeting. Such notice may be by mail, e-mail, or fax and shall be sent to the director's usual business address or home address.

A notice or waiver of notice need not specify the purpose of any meeting unless such purpose is:

- i. the amendment or repeal of, or of any provision of, the Certificate of Incorporation or these Bylaws; or
- ii. the removal of a director.

### **3.5 Waiver of Notice**

Whenever notice is required to be given to any director or member of a committee under the provisions of the Certificate of Incorporation or these Bylaws, a waiver thereof in writing or electronically by any such director or member of a committee, whether before or after any time stated therein, shall be equivalent to the giving of such notice. Such waiver need not specify the purpose or purposes of the meeting.

### **3.6 Action without Meeting**

Subject to the provisions of applicable law, any action required or permitted to be taken by the Board of Directors or any committee under any provision of law, the Certificate of Incorporation, or these Bylaws may be taken without a meeting if all members of the Board or such committee, as the case may be, shall individually or collectively consent in writing or electronically to such action. Such consent or consents shall be filed with the minutes of the proceedings of the Board or such committee. Such action by written or electronic consent shall have the same force and effect as the unanimous vote of such directors. Any certificate or other document filed under any provision of law that relates to action so taken shall state that the action was taken by unanimous written consent of the Board of Directors or the committee, as the case may be, without a meeting and that the Certificate of Incorporation and these Bylaws authorize the directors to so act, and such statement shall be *prima facie* evidence of such authority.

### **3.7 Validation of Meetings Defectively Called or Noticed**

The transactions of any meeting of the Board, however called and noticed or wherever held, are as valid as though the meeting had been duly held after proper call and notice, provided a quorum, as defined herein, is present and provided that either before or after the meeting each of the directors not present signs a waiver of notice, a consent to holding the meeting, or an approval of the minutes thereof. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

## **Section 4: Committees**

### **4.1 Executive Committee**

The Board of Directors, by a majority vote of its members, may designate two (2) or more of the directors as an Executive Committee. Unless otherwise determined by resolution of the Board, such Committee shall have the powers and authority of the Board in the management of the business and affairs of the Corporation, except the power to: amend, alter, restate, or repeal the Certificate of Incorporation or these Bylaws; elect, appoint, or remove any member of any such committee or any director or officer of the Corporation elected or appointed by the Board; adopt a plan of merger or adopt a plan of consolidation with another corporation; authorize the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the Corporation; authorize the voluntary dissolution of the Corporation; or amend, alter, or repeal any resolution of the Board of Directors. The designation and appointment of any such Committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual director, of any responsibility imposed upon the Board or an individual director by law, by the Certificate of Incorporation, or by these Bylaws. By a majority vote of its members, the Board may at any time modify or revoke any or all of the authority of the Executive Committee, increase or decrease (but not below two) the number of its members, and fill vacancies therein from the members of the Board. The Executive Committee shall establish rules and regulations for its meetings and meet at such times as it deems necessary, provided that reasonable notice of all such meetings shall be given to its members, and no act of the Committee shall be valid unless approved by the vote or written consent of a majority of its members. The Committee shall keep regular minutes of its proceedings and report the same to the Board from time to time as the Board may require.

### **4.2 Other Committees**

Other committees not having and exercising the authority of the Board in the management of the Corporation may be appointed by the Chair, or in such other manner as may be designated by resolution adopted by a majority of the directors present at a meeting at which a quorum is present. Except as otherwise provided in the resolution, the Chair shall appoint the members of such committees. Any member of such any committee may be removed by the person or persons authorized to appoint such member whenever in such person's judgment the best interests of the Corporation shall be served by such removal. Each such committee shall be composed of no less than two (2) directors and shall pursue such purposes and have such powers as the Chair shall designate, provided that no such committee shall have any greater powers than those permitted to be exercised by the Executive Committee

### **4.3 Terms of Office**

Each member of a committee shall continue as such until the next Annual Meeting of the Board of Directors and until a successor is appointed, unless the committee is sooner terminated, unless such member be removed from such committee, or unless such member ceases to qualify as a member thereof.

### **4.4 Committee Chair**

One member of each committee shall be appointed chair by the person or persons authorized to appoint the members thereof.

#### **4.5 Vacancies**

Vacancies in the membership of any committee may be filled in the same manner as provided in the case of the original appointments.

#### **4.6 Quorum**

Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum, and the act of a majority of the members present at a meeting at which quorum is present shall be the act of the committee.

#### **4.7 Rules**

Each committee may adopt rules for its own governance not inconsistent with these Bylaws or with rules adopted by the Board of Directors.

#### **4.8 Attendance by Officers and President & Chief Executive Officer**

The Chair, any Vice Chair, and President & Chief Executive Officer shall be entitled to attend and participate in meetings of committees, except that the President & Chief Executive Officer shall not attend any portion of any meeting during which he/she is being reviewed. Unless also a member of such committee, no such officer shall be entitled to vote at such committee meeting.

#### **4.9 Boards of Advisors**

The Board of Directors may designate certain persons or groups of persons as advisors of the Corporation or such other title as the Board deems appropriate. Such persons shall serve in an honorary or advisory capacity for such purposes as the Board shall designate, and, except as the Board shall otherwise designate, shall in such capacity have no right to notice of or vote in any meeting, shall not be considered for purposes of a quorum, and shall have no other rights or responsibilities.

### **Section 5: Officers**

#### **5.1 Number and Qualifications**

The officers shall consist of Chair, one or more Vice Chairs, President & Chief Executive Officer, Secretary, Treasurer, and such other officers as the Board may from time to time deem necessary and convenient. The Corporation may also have, at the discretion of the Chair, one or more Senior Vice Presidents, one or more Vice Presidents, one or more Assistant Secretaries, one or more Assistant Treasurers, and such other officers as may be appointed in accordance with Section 5.3. One person may hold two or more offices, except those of President and Secretary.

#### **5.2 Election and Tenure**

The Chair, one or more Vice Chairs, Secretary, and Treasurer shall be elected from among the directors by a majority vote of the Board at each Annual Meeting or, to fill vacancies, at any meeting of the Board. Such officers shall hold office until he/she resigns or is removed or is otherwise disqualified to serve, or until his or her successor shall be elected and qualified, whichever occurs first. All officers shall at all times carry out their duties under the direction and the control of the Board of Directors.

#### **5.3 Appointment of Other Officers**

The Chair may appoint such other officers or agents as he/she may deem desirable, for such terms and with such titles, duties, and powers as he/she may prescribe. Except as otherwise expressly provided by law, by the Certificate of Incorporation, or by these Bylaws, such officers shall, in the name of the Corporation, execute deeds, mortgages, bonds, contracts, checks, or such other instruments as may from time to time be authorized by the Chair.

#### **5.4 Resignation and Removal**

Any officer may resign at any time by giving written notice to the Board of Directors or to the Chair or Secretary of the Corporation, or, in the case of an officer appointed by the Chair, to the President and Chief Executive Officer. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Any officer elected by the Board of Directors may be removed with or without cause by a majority vote of the directors then holding office. An such officer may be removed for cause only after notice to that officer and an opportunity to be heard by the Board. An officer appointed by the Chair may be removed with or without cause by the Chair.

#### **5.5 Chair and Vice Chair(s)**

The Chair shall, subject to the control of the Board of Directors, generally supervise and control the affairs of the Corporation. He/she shall perform all duties incident to his/her office and such other duties as may be required by law, by the Certificate of Incorporation, or by these Bylaws, or which may be prescribed from time to time by the Board of Directors. Except as otherwise expressly provided by law, by the Certificate of Incorporation, or by these Bylaws, he/she shall, in the name of the Corporation, execute such deeds, mortgages, bonds, contracts, checks, or other instruments which may from time to time be authorized by the Board of Directors. The Chair shall also call and preside at all meetings of the Board of Directors and perform such other tasks as are directed by the Board.

The Vice Chair (or, in the event there is more than one, the Vice Chair having served longest on the Board) shall perform the duties of the Chair in the absence of the Chair and shall perform such other duties as are assigned by the Chair or by the Board.

#### **5.6 President & Chief Executive Officer**

##### ***Selection & Evaluation***

The President & Chief Executive Officer shall be appointed by and serve at the pleasure of the Board of Directors and shall receive such compensation as the Board may direct. The Board of Directors shall conduct an annual review and evaluation of the President & Chief Executive Officer.

##### ***Duties***

The President & Chief Executive Officer shall carry out the policies established by the Board of Directors and shall be directly responsible to the Board and the Chair. The President & Chief Executive Officer shall, within the budget adopted by and under the general direction of the Board, be the administrator and the programmatic leader of the Corporation, with responsibility for coordination of the programmatic and administrative operation of the Corporation and subsidiary

activities, if any, sponsored by the Corporation. More specifically, such duties shall include but not be limited to:

- General management of the programmatic and administrative operations of the Corporation.
- Prescribing and directing the standards and the assessment of employee performance.
- Preparing an annual budget for submission to the Treasurer and the Board.
- Employing, evaluating, and discharging staff personnel and prescribing their duties and terms of employment.
- Conducting annual reviews of all management and staff personnel.
- Carrying out the policies of the Corporation and other decisions of the Board of Directors as it may adopt from time to time.
- Anticipating the needs of the Corporation and the community, both short and long term, and interpret those needs and changes for the Board.
- Reporting at each regular meeting of the Board of Directors on the activities and financial condition of the Corporation.

### **5.7 Secretary**

The Secretary shall:

- Certify and keep at the principal office of the Corporation the original, or a copy, of these Bylaws as amended or otherwise altered to date.
- Record and maintain records of all proceedings of Board meetings in a book or a series of books.
- Attest to all documents of the Board.
- Be custodian of the corporate seal and the record books, papers and documents (except financial records) of the Board.
- Make copies of any records available to any director upon request.
- Provide copies of the minutes of the previous meeting of the Board and the notice and agenda of the following meeting to each director before the beginning of each such following meeting.
- See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law.
- In general, perform all duties incident to the office of Secretary and such other duties as may be required by law, by the Certificate of Incorporation, or by these Bylaws, or which may be assigned to him or her from time to time by the Chair or the Board of Directors.

### **5.8 Treasurer**

The Treasurer shall:

- Have general oversight of the financial affairs of the Corporation.
- Cause to be kept full accounts of receipts and disbursements in books belonging to the Corporation and deposit all monies in the name and to the credit of the Corporation in such depository as shall be authorized by the Board.

- Render to any director such reports and statements of the transactions and accounts as they may request.
- Borrow money for the purpose of meeting Corporation expenses, give a note or notes therefor, and pledge such securities as may be necessary to secure any such note, when authorized by resolution of the Board of Directors.
- Chair any Finance Committee established by the Board.
- Prepare, or cause to be prepared, and certify any necessary financial statements.
- Pro-actively report to and seek the review, oversight, and advice of the Corporation's auditors.
- Ensure that the Corporation adheres to the financial policies and procedures adopted by the Corporation.
- Render to the Chair and directors, whenever he/she or they may request, an account of any or all of his/her transactions as Treasurer and of the financial condition of the Corporation.
- In general, perform all duties incident to the office of Treasurer and such other duties as may be required by law, by the Certificate of Incorporation, or by these Bylaws, or which may be assigned to him/her from time to time by the Board of Directors.

## **5.9 Vacancies**

Any vacancy caused by death, resignation, removal, disqualification, or otherwise, of the Chair shall be filled by the Board of Directors for the unexpired portion of the term. Any vacancy caused by death, resignation, removal, disqualification, or otherwise, of any other officer shall be filled by the Chair for the unexpired portion of the term.

## **Section 6: Compensation and Personal Liability**

### **6.1 Compensation**

No director or officer shall receive any compensation for services rendered as a director or officer. Notwithstanding the foregoing, any director or officer may receive reasonable compensation for services rendered as an employee or contractor of the Corporation and any director or officer may, if authorized by the Board of Directors, be reimbursed for necessary expenses including travel expenses, reasonably incurred and specifically documented by the director or officer in the performance of duties as a director or officer.

### **6.2 Personal Liability**

The members of the Board of Directors and the officers of the Corporation shall not be personally liable for any debt, liability, or obligation of the Corporation. Any and all persons or entities extending credit to, contracting with, or having any claims against the Corporation may look only to the funds and property of the Corporation for the payment of any such contract or claim or for the payment of any debt, damages, judgment or decree, or any money that may otherwise become due or payable to it or them from the Corporation.

## **Section 7: Miscellaneous Provisions**

### **7.1 Execution of Instruments**

All contracts, deeds, leases, bonds, notes, checks, drafts, and other instruments authorized to be executed by an officer of the Corporation on its behalf shall be signed by one or both of the

President & Chief Executive Officer or the Treasurer except as the Board may generally or in particular cases otherwise determine. Any recordable instrument purporting to affect an interest in real estate, executed in the name of the Corporation by two of the Corporation's officers, one of whom is the Chair or Vice Chair and the other is the Secretary or Treasurer, shall be binding on the Corporation in favor of a purchaser or other person relying in good faith on such instrument.

## **7.2 Corporate Records and Corporate Seal**

The records of all meetings of directors, the names and addresses of the directors and officers of the Corporation, and the originals or attested copies of the Certificate of Incorporation and the Bylaws shall be kept in the District of Columbia at the principal office of the Corporation.

The Board of Directors may adopt, use, and alter a corporate seal. Such seal shall be affixed to all corporate instruments, but failure to affix it shall not affect the validity of any such instrument.

## **7.3 Guarantees and Suretyships**

The Corporation shall make no contracts of guarantee and suretyship.

## **7.4 Gifts**

The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Corporation, so long as such acceptance does not jeopardize the Corporation's tax-exempt status or violate any provision of applicable law.

## **7.5 Non-Discrimination**

This Corporation declares that no candidate for employment shall be discriminated against because of gender, sexual orientation, race, creed, national origin, cultural heritage, religion, marital status, or disability, or on any other basis prohibited by applicable law.

## **7.6 Disposition of Assets**

Upon dissolution of the Corporation, any assets remaining shall be disposed of in strict compliance with the requirements of Section 501(c)(3) of the Internal Revenue Code.

## **7.7 Headings and Titles**

The heading and titles in these Bylaws are solely for convenience of reference and shall not be considered in construing or interpreting the Bylaws.

# **Section 8: Indemnification**

## **8.1 Generally**

The Corporation shall, to the extent legally permissible and only to the extent that the Corporation's status as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code is not affected thereby, indemnify each person who is serving or who has served at any time as a director or officer of the Corporation, each person who is serving or who has served at the request of the Corporation as director, officer, employee, or other agent of another organization, and each person who is serving or has served at the request of the Corporation in a capacity with respect to any employee benefit plan (each such person, an "Indemnified Party") against all expenses and liabilities including, without limitation, counsel fees, judgments, fines, excise taxes, penalties and compromise or settlement payments, imposed upon

or reasonably incurred by such person in connection with any or investigation in which an Indemnified Party may become involved by reason of service or having served in such capacity; provided, however, that no indemnification shall be provided to an Indemnified Party with respect to any matter as to which an Indemnified Party shall have been finally adjudicated in any proceeding—

- i. to have breached the Indemnified Party's duty of loyalty to the Corporation;
- ii. not to have acted in good faith in the reasonable belief that such Indemnified Party's action was in the best interest of the Corporation;
- iii. to have engaged in intentional misconduct or a knowing violation of the law; or
- iv. to have engaged in any transaction in relation to which the Indemnified Party derived an improper personal benefit.

Any person entitled herein to be an Indemnified Party and who shall have acted in good faith in the reasonable belief that his/her action was in the best interests of the participants or beneficiaries of such employee benefit plan shall be deemed in relation thereto to have acted in such manner with respect to the Corporation.

## **8.2 Advances: Repayment**

Such indemnification may, to the extent authorized by the Board, include payment by the Corporation of expenses, including attorneys' fees, reasonably incurred in defending a civil or criminal action or proceeding in advance of the final disposition of such action or proceeding, upon receipt of an undertaking (evidenced by a promissory note and with security reasonable in the circumstances) by the Indemnified Party to repay such payment if the Indemnified Party is finally determined not to be entitled to indemnification under this Section 8, which undertaking may be accepted without regard to the financial ability of such Indemnified Party to make repayment.

## **8.3 Authorization**

The payment of any indemnification or advance shall be conclusively deemed authorized by the Corporation under this Section 8, and each director and officer of the Corporation approving such payment shall be wholly protected from personal liability in respect thereof, if—

- a. the payment has been approved or ratified—
  - (1) by a majority vote of the members of the Board of Directors who are not at that time parties to the proceeding; or
  - (2) by a majority vote of a committee of two or more directors who are not at that time parties to the proceeding and are selected for this purpose by the Board (in which selection directors who are parties may not participate);
- b. the action is taken in reliance upon the opinion of independent legal counsel (who may be counsel to the Corporation) appointed for such purpose by vote of the directors in the manner specified in the clauses (1) or (2) of subparagraph (a) or if that manner is not possible, appointed by a majority of the directors then in office;
- c. the director has otherwise acted in accordance with the standard of conduct applied to directors under the laws of the District of Columbia as amended from time to time; or
- d. a court having jurisdiction shall have approved payment.

#### **8.4 Heirs, Executors and Administrators**

The indemnification provided hereunder shall inure to the benefit of the heirs, executors and administrators of any Indemnified Party.

#### **8.5 Non-Exclusive Rights**

The right of indemnification under this Section 8 shall be in addition to and not exclusive of all other rights to which any person may be entitled. Nothing contained in this Section 8 shall affect any rights to indemnification to which Indemnified Parties and other persons may be entitled by contract or otherwise under law.

#### **8.6 Adverse Amendment**

No amendment or repeal of the provisions of this Section 8 which adversely affects the rights of an Indemnified Party under this Section 8 shall apply to that Indemnified Party with respect to the acts of omissions of such Indemnified Party at any time prior to such amendment or repeal, unless such amendment or repeal was voted for by or was made with the written consent of such Indemnified Party.

#### **8.7 Employees and Agents**

To the extent legally permissible and only to the extent that the status of the Corporation as exempt from federal income taxation under Section 501(c)(3) of the Code is not affected thereby, the Corporation may indemnify any employee or agent of the Corporation to the extent authorized by the Board, in its sole discretion, by the affirmative vote of a majority of the directors entitled to vote. The foregoing provisions of this Section 8 shall apply to any indemnification of any such employee or agent.

### **Section 9: Amendments**

The Board of Directors may amend these Bylaws or the Certificate of Incorporation by a majority vote of all the members of the Board at any meeting of the Board, provided that notice of the proposed change(s) shall have been given before the meeting or such notice is waived by all members of the Board in writing or in any meeting.

## CERTIFICATE

I, the duly elected Secretary of Davis Memorial Goodwill Industries, hereby certify that the foregoing document is a correct and complete statement of the Bylaws of the said Corporation as of this 7<sup>th</sup> day of March, 2008.

A handwritten signature in blue ink, appearing to read "Kent J. Howard", is written in a cursive style.