

Bylaws
of
As adopted by the Board of Directors

These bylaws constitute the code of rules adopted by Cultura Brasil in Austin (hereafter “the Corporation”) for the regulation and management of its affairs. Cultura Brasil in Austin is a nonprofit corporation organized under the Texas Business Organization Code (referred to as the “Code”).

ARTICLE 1
Registered Office and Registered Agent

Registered Office and Registered Agent - The Corporation shall comply with the requirements of the Code and maintain a registered office and registered agent in Texas. The registered office may, but need not, be identical with the Partnership’s principal office in Texas. The Board of Directors may change the registered office and the registered agent as provided in the Code.

ARTICLE 2
Purpose

This Corporation is organized pursuant to the Texas Business Organizations Code. The purposes for which the Corporation is organized are exclusively charitable within the meaning of the Internal Revenue Service Code, Section 501 (c) (3), and the Texas Tax Code, Section 11.18, and consist of the following:

- (a) Cultura Brasil in Austin promotes art and cultural education by sponsoring and providing programs related to various aspects of the Brazilian culture including language classes, visual and performing arts, a library, lectures, workshops, forums and events which promote the Brazilian culture and traditions.

ARTICLE 3
Board of Directors

- (1) **Powers** - The Board of Directors (“Directors”) of this Corporation is vested with the management of the business and affairs of this Corporation, subject to the Texas Business Organizations Code, the Certificate of Formation, and these bylaws.
- (2) **Qualifications** – Directorships shall not be denied to any person based on race, creed, sex, sexual preference, or national origin.
- (3) **Number and Classes of Directors** - The Board of Directors will be comprised of three (3) to nine (9) members. Upon majority resolution of the Board of Directors, the number of Directors may be increased or decreased from time to time, but in no event shall a decrease have the effect of shortening the term of an incumbent Director, or decreasing the total number of Directors to less than three (3) Directors.

- (4) **Term of Directors** - Directors shall serve terms of 2 years. A Director may succeed him/herself without limit.
- (5) **Staggered Terms** - There shall be staggered terms of office for Directors so that one-half of the directorships shall be up for election each year. Initially, one-half of the Directors shall be elected for a one-year term and one-half for a two-year term. Initial directors serving less than a full two-year term as their initial term (i.e., directors who draw a one-year), shall be considered to have served a full two-year term.
- (6) **Election of Directors** - Elections for Directors filling expired terms shall be held at the Annual Meeting of the Board which shall be the last meeting of the fiscal year. Any directorship to be filled by reason of an increase in the number of Directors shall be filled at the next regular meeting of the Board of Directors or at a special meeting called for that purpose. When a re-appointment or replacement is made, the re-appointment or replacement shall end his or her term at the same time as the person s/he replaced.
- (7) **Attendance:** Directors are expected to attend at least 75% of Board meetings. Any Director not present or participating by electronic means at 75% of the Board in a fiscal year shall be deemed to have resigned unless the Board excuses the absences by a majority vote.
- (8) **Resignation** - Any Director may resign at any time by delivering written notice to the Secretary or President of the Board of Directors. Such resignation shall take effect upon receipt or, if later, at the time specified in the notice.
- (9) **Removal** - Any Director may be removed without cause, at any time, by a majority of the entire Board of Directors, at a Regular or Special Meeting called for that purpose. Any Director under consideration of removal must first be notified about the consideration by written notice at least five days prior to the meeting at which the vote takes place.
- (10) **Vacancies** - Vacancies shall be filled by majority vote of the remaining members of the Board of Directors, though less than a quorum and the Director filling the vacancy shall serve for the remainder of the term of the directorship that was vacated. Vacancies shall be filled as soon as practical.
- (11) **Compensation** - Directors and Officers shall not receive any salaries or other compensation for their services as Board members or Officers. The Corporation shall not loan money or property to, or guarantee the obligation of, any Director or Officer. Board members may, however, be reimbursed for actual expenses incurred in fulfilling their Board responsibilities. Such payment shall be defined by a policy adopted by the Board.

ARTICLE 4
Board of Directors Meetings

- (1) **Place of Board Meetings** - Regular and Special Meetings of the Board of Directors will be held at any place that the majority of the Board may designate.
- (2) **Regular and Special Meetings** - Regular meetings of the Board of Directors shall be quarterly or more often if deemed necessary by the Board. Special Meetings may be called by the President or any two Directors.
- (3) **Annual Meeting** - The Annual Meeting of the Board of Directors shall be held at the last Board meeting of the fiscal year, at which time Directors and Officers shall be elected, the annual budget adopted, and actions taken on other transactions that may properly come before the Board.
- (4) **Notice of Board Meetings** - The minutes of the prior regular meeting and an agenda for the forthcoming meeting, its date, time, and location shall be provided at least 5 days prior to the meeting. Notification can be by US Mail, telephone, fax, or email. Said meetings are set by the President with Board approval.
- (5) **Notice of Special Meetings** - Notice of the date, time, and place of special meetings shall be given to each board member using the same methods, but with no less than 7 days' notice prior to the meeting,
- (6) **Waiver of Notice** - Attendance by a Director at any meeting of the Board of Directors for which the Director did not receive the required notice will constitute a waiver of notice of such meeting unless the Director objects at the beginning of the meeting to the transaction of business on the grounds that the meeting was not lawfully called or convened.
- (7) **Quorum** - A majority of the incumbent Directors (not counting vacancies) shall constitute a quorum for the purposes of convening a meeting or conducting business. At Board meetings where a quorum is present, a majority vote of the Directors attending shall constitute an act of the Board unless a greater number is required by the Certificate of Formation or by any provision of these bylaws.
- (8) **Actions without a Meeting** - Any action required or permitted to be taken by the Board of Directors under the Texas Business Organizations Code, the Certificate of Formation, and these bylaws may be taken without a meeting, if all Directors individually and collectively consent in writing or e-mail or facsimile, setting forth the action to be taken. Such written consent shall have the same force and effect as a unanimous vote of the Board.
- (9) **Meetings by Remote Communications Technology** – A meeting of the board of directors of this corporation, or any committee designated by the board of directors of this corporation may be held by means of a remote electronic communications system, including videoconferencing technology or the Internet, only if: (1) each person entitled to participate in the meeting consents to the meeting being held by means of that system; and (2) the system provides access to the meeting in a manner or using a method by which each person participating in the meeting can communicate concurrently with each other participant.

- (10) **Duties of Directors** - A director shall discharge the director's duties in good faith, with ordinary care, in a manner the director reasonably believes to be in the best interest of the Corporation and in any other manner as set forth in the Code, as amended.
- (11) **Proxy** – Proxies shall not be allowed.

ARTICLE 5

Officers

- (1) **Roster of Officers** - The Corporation shall have a President, Vice-President, Secretary, and Treasurer, and such other officers as may be elected by the Board from amongst its members. As members of the Board of Directors, Officers shall be governed by all portions of these bylaws which relate to Board members. One person may hold two or more offices, except those serving as President or Secretary must be different persons. All Officers shall perform the duties prescribed in these bylaws and/or by the parliamentary authority adopted.
- (2) **Election, Removal and Term of Office** - Officers shall serve a term of two (2) years. An Officer may succeed him/herself for two (2) consecutive terms. After serving three (3) consecutive terms, an Officer must vacate his or her position for at least one year before seeking re-election to that position for another term.
- (3) **Vacancies** - If a vacancy occurs during the term of office for any elected officer, for whatever reason, the Board of Directors shall elect a new officer to fill the remainder of the term as soon as practical by majority vote of Directors present.
- (4) **President** – The President will perform all duties incident to such office and such other duties as may be provided in these bylaws or as may be prescribed from time to time by the Board of Directors. The President shall preside at all board meetings and shall exercise parliamentary control. S/he shall serve as an ex-officio member of all standing committees, unless otherwise provided by the Board of Directors or these bylaws. The President shall, with the advice of the Board of Directors and in accordance with the requirements of these bylaws, set the agenda for each meeting of the Board of Directors.
- (5) **Vice-President** – The Vice-President will perform such duties as assigned by the Board and shall assist the President in fulfilling his/her responsibilities. In the case of the absence or disability of the Secretary, or the Secretary's refusal or neglect to fulfill the duties of Secretary, the Vice President shall perform the functions of the Secretary.
- (6) **Secretary** - The Secretary will be responsible for performing, or overseeing the performance of, all duties incident to the office of Secretary and such other duties as may be required by law, by the Certificate of Formation, or by these bylaws. S/he shall attest to and keep the bylaws and other legal records of the Corporation, or copies thereof, at the principal office of the Corporation; shall take or ensure that someone takes minutes of all meetings of the committees and Board of Directors, and shall keep copies of all minutes at the principal office of the Corporation; shall keep a record of the names and addresses of the Directors at the principal office of the Corporation; shall, with the approval of the Board of Directors, set up procedures for any elections held by the Corporation; shall keep a record of all votes cast in such elections; ensure that all records of the Corporation, minutes of all official meetings, and records of all

votes, are made available for inspection by any member of the Board of Directors at the principal office of the Corporation during regular business hours; shall see that all notices are duly given in accordance with these bylaws or as required by law; shall see that all books, reports, statements, certificates, and other documents and records of the Corporation are properly kept and filed. In the case of the absence or disability of the Secretary, or the Secretary's refusal or neglect to fulfill the duties of Secretary, the Vice President shall perform the functions of the Secretary.

- (7) **Treasurer** - The Treasurer will be responsible for performing, or overseeing the performance of, the financial business of the Corporation, will render reports and accountings to the Directors as required by the Board of Directors, and will perform in general all duties incident to the office of Treasurer and such other duties as may be required by law, by the Certificate of Formation, or by these bylaws, or which may be assigned from time to time by the Board of Directors. S/he and the staff of the Corporation shall devise a plan providing for the acceptance and disbursement of all funds of the Corporation which shall be approved by the Board of Directors. The Treasurer, with the approval of the Board of Directors, shall set up all checking, savings, and investment accounts of the Corporation and deposit all such funds in the name of the Corporation in such accounts. The Treasurer's signature shall be the authorized signature for all checking, savings, and investment accounts of the Corporation unless the Treasurer, with the approval of the Board of Directors, designates another member of the Board of Directors or employee of the Corporation as the authorized signatory for a particular type of disbursement. S/he shall prepare a monthly report for the Board of Directors, providing an accounting of all transactions and of the financial conditions of the Corporation. S/he shall keep all financing records, books, and annual reports of the financial activities of the Corporation at the principal office of the Corporation and make available at the request of any Director or member of the public those documents required by law or regulation, during regular business hours for inspection.

ARTICLE 6

Committees

- (1) The Board of Directors may from time to time designate and appoint additional standing or temporary committees by majority vote of the Board of Directors. Such committees shall have and exercise such prescribed authority as is designated by the Board of Directors. The Directors may authorize these committees to exercise any powers, responsibilities, and duties consistent with this Certificate of Formation and these bylaws.
- (2) The Chair of each committee shall be a member of the board.
- (3) Committee members will be appointed by the President with the advice and counsel of the Board. Their terms shall be as determined by the board based on the charge given to each committee.
- (4) Committees will make recommendations to the Board of Directors and execute such plans as approved by the Board. They shall report their findings and recommendations directly to the President and provide progress reports for Board of Directors Meetings.

ARTICLE 7
Code of Ethics

- (1) The Corporation and its Directors and Employees will comply with the following Code in all of their actions. As long as the Corporation is in existence, no director, officer, or employee of the Corporation shall:
- (a) do any act in violation of these Bylaws or a binding obligation of the Corporation;
 - (b) do any act with the intention of harming the Corporation or any of its operations;
 - (c) do any act that would make it unnecessarily difficult to carry on the intended or ordinary business of the Corporation;
 - (d) receive an improper personal benefit from the operation of the Corporation;
 - (e) use the assets of this Corporation, directly or indirectly, for any purpose other than carrying on the business of this Corporation;
 - (f) wrongfully transfer or dispose of Corporation property, including intangible property such as goodwill; and
 - (g) use the name of the Corporation (or any substantially similar name) or any trademark or trade name adopted by the Corporation, except on behalf of the Corporation in the ordinary course of the Corporation's mission.
- (2) In addition, if any Board member, Officer or staff member shall be legally charged with any act that may serve as a source of embarrassment or to negatively affect the credibility and legitimacy of the Corporation, s/he shall be temporarily removed from the Board and/ or from his or her position within the Corporation, until such time as such charges or allegations are resolved. During such a sabbatical, s/he shall not be considered a member of the Board for the purposes of a quorum, though such time shall be considered as if served for the purposes of determining the completion of his or her term.

ARTICLE 8
Rules of Procedure

The proceedings and business of the Board of Directors shall be governed by *Robert's Rules of Parliamentary Procedure* unless otherwise provided for by the Board.

ARTICLE 9
Executive Director/ CEO

- (1) The Board of Directors may, upon resolution, appoint an Executive Director/CEO to serve at the board's discretion and to carry out whatever tasks the board from time to time resolves.
- (2) The Executive Director/ CEO may be compensated as shall be determined by the Board of Directors. Subject to such supervisory powers as are vested in the Board of Directors, the Executive Director/ CEO shall supervise, direct, and manage the business of the Corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or by these bylaws.
- (3) The Executive Director/ CEO may engage in negotiations involving commitments of the resources of the Corporation or the acceptance of money or resources by the Corporation in furtherance of the purposes of the Corporation as set out in the Certificate of Formation and these bylaws.
- (4) The Executive Director/ CEO shall generally be expected to attend all meetings of the Board of Directors.

ARTICLE 10
Indemnification

- (1) **Insurance** - The Corporation will provide indemnification insurance for its Board members, and the Board shall select the amount and limits of such insurance policy.
- (2) **Indemnification** - To the extent permitted by law, any person (and the heirs, executors, and administrators of such person) made or threatened to be made a party to any action, suit, or proceeding by reason of the fact that he is or was a Director or Officer of the Corporation shall be indemnified by the Corporation against any and all liability and the reasonable expenses, including attorney's fees and disbursements, incurred by him (or by his heirs, executors or administrators) in connection with the defense or settlement of such action, suit, or proceeding, or in connection with any appearance therein.
- (3) **Limits on Indemnification** - Notwithstanding the above, the Corporation will indemnify a person only if he acted in good faith and reasonably believed that his conduct was in the Corporation's best interests. In the case of a criminal proceeding, the person may be indemnified only if he had no reasonable cause to believe his conduct was unlawful.

ARTICLE 11

Operations

- (1) **Execution of Documents** - Unless specifically authorized by the Board of Directors or as otherwise required by law, all final contracts, deeds, conveyances, leases, promissory notes, or legal written instruments executed in the name of and on behalf of the Corporation shall be signed and executed by the President, Treasurer or Executive Director (or such other person designated by the Board of Directors), pursuant to the general authorization of the Board. All conveyances of land by deed must be approved by a resolution of the Board of Directors and shall be signed by the President.
- (2) **Disbursement of Funds** - Financial transactions of over \$5,000 which are not included in the annual budget shall require majority approval of the Board of Directors. In all other transactions, the Treasurer and President may dispense with the funds of the Corporation in accordance with expenditures approved by the Board of Directors and the purposes of the Corporation as set out in the Certificate of Formation and these bylaws. For purposes of this clause, "signature" shall include electronic approval. Unless otherwise determined by the Board, the President, Executive Director/ CEO and Treasurer shall have such signature authority.
- (3) **Procurement Policy** - The Corporation shall adopt and abide by a procurement policy which shall be an addendum to these bylaws.
- (4) **Whistleblower Policy** - The Corporation shall adopt and abide by a whistleblower policy which shall be an addendum to these bylaws.
- (5) **Document Retention and Destruction Policy** - The Corporation shall adopt and abide by a document destruction and retention policy which shall be an addendum to these bylaws.
- (6) **Records** - The Corporation will keep correct and complete records of account and will also keep minutes of the proceedings of the Board meetings and Committees. The Corporation will keep at its principal place of business the original or a copy of its bylaws, including amendments to date certified by the Secretary of the Corporation.
- (5) **Inspection of Books and Records** - All books and records of this Corporation may be inspected by any Director for any purpose at any reasonable time on written demand. The Corporation shall keep correct and complete books and records of account.
- (6) **Deposits** - All funds of the Corporation shall be deposited to the credit of the Corporation in banks, trust companies, or other depositories that the Board of Directors selects.
- (7) **Loans** - The Corporation will make no loans to any of its employees, Directors or Officers.
- (8) **Fiscal Year** - The fiscal year of the Corporation shall be July 1 through June 30.

ARTICLE 12

Conflicts of Interest

- (1) The purpose of the conflict of interest policy is to protect this tax-exempt organization's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Corporation or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.
- (2) **Definitions:**
 - (a) **Interested Persons** - Any director, principal officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.
 - (b) **Financial Interest** - A person has a financial interest if the person has, directly or indirectly, through business, investment, or family: (1) An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement; (2) A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement, or (3) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement. Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. A financial interest is not necessarily a conflict of interest. A person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.
- (3) **Procedures:**
 - (a) **Duty to Disclose** - In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement;
 - (b) **Determining Whether a Conflict of Interest Exists** - After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.
 - (c) **Procedures for Addressing the Conflict of Interest**
 1. An interested person may make a presentation at the governing board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest;
 2. The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement;

3. After exercising due diligence, the governing board or committee shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest;
4. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

(d) **Violations of the Conflicts of Interest Policy:**

1. If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
2. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

- (4) **Records of Proceedings** - The minutes of the governing board and all committees with board delegated powers shall contain: (1) The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed; (2) The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

(5) **Compensation:**

- (a) A voting member of the governing board who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation;
- (b) A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.
- (c) No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

- (6) **Annual Statements** - Each director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person: (a) Has received a copy of the conflicts of interest policy; (b) Has read and understands the policy; (c)

Has agreed to comply with the policy; and (d) Understands the Corporation is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

- (7) **Periodic Reviews** - To ensure the Corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:
- (a) Whether compensation arrangements and benefits are reasonable, based on competent survey information and the result of arm's length bargaining.
 - (b) Whether partnerships, joint ventures, and arrangements with management organizations conform to the Corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.
- (8) **Use of Outside Experts** - When conducting the periodic reviews as provided for in section (7), the Corporation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

ARTICLE 13 Amendments

- (1) **Articles of Amendment** - The Board of Directors may adopt Articles of Amendment (amending the Certificate of Formation) by a vote of two-thirds of Directors present at a meeting where a quorum is present
- (2) **Bylaws** - These by-laws may be altered or amended in whole or in part, or repealed and new by-laws may be adopted by a majority of the Directors present at any annual meeting or any special meeting, if at least three (3) days written notice is given of an intention to alter, amend, or repeal these by-laws or to adopt new by-laws at such meeting, and such notice contains a statement of the nature of the proposed amendment(s), and shall become effective upon adoption.

ARTICLE 14 Dissolution or Sale of Assets

- (1) A unanimous vote of the Board of Directors shall be required to dissolve the Corporation. Upon dissolution of the Corporation, any assets remaining after payment of or provision for its debts and liabilities shall, consistent with the purposes of the organization, be paid over to charitable organizations exempt under the provisions of Section 501 (c)(3) of the U.S. Internal Revenue Code or corresponding provisions of subsequently enacted federal law. No part of the net assets or net earnings of the Corporation shall inure to the benefit of or be paid or distributed to an officer, director, member, employee, or donor of the Corporation.

Appendix A: **Procurement/ Contracting Policy**

Adopted by the Board on _____

Contracting Authority and Responsibility

Only those individuals who are authorized to enter into contracts on behalf of Cultura Brasil in Austin may do so. The President, treasurer and Executive Director/ CEO have authority to negotiate and execute contracts - whose terms fall within the parameters of the approved budget - on the organization's behalf.

Obtaining bids for services and/or products:

- Competitive bids are sought, and a bid process recorded whenever required by funder's contracts.
- When not required by contracts or grants, at least three bids should be sought for each major or regular ongoing purchase, such as a service contract, space rental or equipment rental.
- When the annual or project budget is developed, the need for services, supplies and equipment must be included. Once approved, the budget serves as approval for all purchases included therein.

When entering into a relationship with an individual or an organization, those with contracting authority will consider:

- what specifically the Organization expects to happen/acquire/develop;
- what assumptions or "rules" are in effect for the relationship;
- what options are available to end the relationship;
- what will happen to resources developed jointly during relationship;
- who will pay for things needed to meet contract requirements and achieve the specified contract outcomes;
- who will pay for damages/harm caused by the relationship between the parties or as a result of the activity sponsored by both; the need to allow sufficient time for contract formation;
- the importance of finalizing contracts before permitting work to begin;
- the need to make certain that all contracts clearly and accurately reflect both the relationship between the parties and the expectations of the parties;
- the importance of ensuring that any ambiguous or technical terms contained in a contract are specifically defined;
- the importance of only assuming responsibility for harm or loss in cases where the Organization exercises control over the activity or facility;

Contracts are necessary even in cases where Cultura Brasil in Austin has a long-term relationship with a vendor, contractor, or supplier. A contract should be used every time Cultura Brasil in Austin enters a relationship with other parties, including with an independent contractor, vendor, service provider or other nonprofit with which Cultura Brasil in Austin is collaborating.

Contracting and Risk Transfer

The use of a contractor to provide goods or services (such as outsourcing) subjects Cultura Brasil in Austin to additional risk because by entering such a contract Cultura Brasil in Austin loses control of the activity. Giving up control makes sense when the contractor has special skills, insights or training necessary to perform the service safely. However, in these cases the contractor should also be willing to assume legal responsibility for any harm that flows from their actions or omissions. The best way to achieve and demonstrate this acceptance of responsibility (also referred to as "risk transfer") is through a contract that includes the following provisions:

- indemnification provision (where one party agrees to assume the legal costs of another party);
- insurance requirements (where one party insists that the other party purchase insurance); and
- detailed scope of work/division of labor language (language describing what each party will do).

In order to make certain that a contractor has properly assumed responsibility for any harm that might result from the work it will be doing, Cultura Brasil in Austin must require its contractors to provide all the tools, materials, equipment and supplies to accomplish the service or supply the goods; set a schedule to accomplish the service; decide on the sequence of tasks to be done; and hire and supervise others to assist in the completion of the job.

Contractors must be independent of Cultura Brasil in Austin 's control, otherwise Cultura Brasil in Austin may find itself held partially, if not fully, responsible for any incident. That does not mean, however, that Cultura Brasil in Austin personnel should not be involved in planning the performance. Nor does it preclude Cultura Brasil in Austin personnel from dictating job specifications, such as the type and amount of materials, supplies and equipment to be used, any safety requirements, and the terms and conditions of the contract.

It is important to keep in mind that there may be situations when Cultura Brasil in Austin wants to engage a contractor, but that contractor does not have adequate (or any) insurance. In addition, some contractors may be unwilling to accept responsibility for the risks associated with their performance. Deciding whether to engage such a contractor is a business decision; in some cases it may be necessary or prudent to move forward, while in other cases it may be necessary to find a new contractor.

Risk Management Review of Contracts

The principal purpose of a risk management review of contracts is to protect Cultura Brasil in Austin 's interests. But the risk management review also provides an opportunity to:

- strengthen Cultura Brasil in Austin -vendor relationships by providing a context for the discussion of deliverables and expectations-both parties benefit from the time it takes to consummate a contract and work out the various details of the relationship;
- reduce uncertainty-with commitments to each other in writing, the contract itself reduces uncertainty and apprehension for both parties;
- allocate risk appropriately-a contract that contains essential elements allocates risk between the parties according to the responsibilities and control asserted by each;

- improve understanding of the vendor or contractor-many parties to contracts report that it was not until after contract negotiations were complete that they had a good understanding of the other party's operations, mission, etc; and
- reduce likelihood of uninsured losses-while there is always the possibility that losses stemming from contract-related activities will be uninsured, a contract with risk management elements reduces the likelihood of this occurring and eliminates the possibility that one party will assume the other party has appropriate insurance coverage.

Appendix B: **Record Retention and Destruction Policy**

Adopted by the Board on _____

These policies provide for the systematic review, retention and destruction of records received or created by Cultura Brasil in Austin in connection with the transaction of business. These policies cover all records, regardless of physical form, contain guidelines for how long certain records should be kept and how records should be destroyed.

These policies are designed to ensure compliance with federal and state laws and regulations, to eliminate accidental or innocent destruction of records and to facilitate Cultura Brasil in Austin 's operations by promoting efficiency and freeing up valuable storage space. Included in the federal laws necessitating compliance with these policies is the Sarbanes-Oxley Act ("The American Competitiveness and Corporate Accountability Act of 2002"), which makes it a crime to alter, cover up, falsify, or destroy any document with the intent of impeding or obstructing any official proceeding.

These policies apply to all records in any form, including electronic documents.

A **record** is any material that contains information about Cultura Brasil in Austin 's plans, results, policies or performance. Anything that can be represented with words or numbers is a business record for purposes of these policies.

Electronic documents must be retained as if they were paper documents. Therefore, any electronic files, including information received online, that fall into one of the document types on the schedule must be maintained for the appropriate amount of time. [For example, if a user has sufficient reason to keep an email message, the message should be printed in hard copy and kept in the appropriate file or moved to an "archive" computer file folder.] [Backup and recovery methods will be tested on a regular basis.]

Where federal, state, or local law prescribes a definite period of time for retaining certain records, Cultura Brasil in Austin will retain the records for the period specified by law.

Cultura Brasil in Austin shall retain records for the period of their immediate or current use, unless longer retention is necessary for historical reference, or to comply with contractual or legal requirements, or for other purposes as set forth below.

Cultura Brasil in Austin follows the document retention procedures outlined below. Documents that are not listed but are substantially similar to those listed in the schedule will be retained for the appropriate length of time.

Permanent records

Permanent records are records required by law to be permanently retained and which are ineligible for destruction at any time for any reason. These records are necessary for the continuity of business and the protection of the rights and interests of Cultura Brasil in Austin and of individuals. These include records such as organizational documents (Articles of Incorporation and Bylaws), Board minutes and policies, federal and state tax exempt status and independent audits.

Historical records

Historical records are records that are no longer of use to Cultura Brasil in Austin but which because of their age or research value may be of historical interest or significance. Historical records may not be destroyed.

Current Records. Current records are records that for convenience, ready reference or other reasons are retained on-site in the office.

Cultura Brasil in Austin follows the document retention procedures outlined below. Documents that are not listed but are substantially similar to those listed in the schedule will be retained for the appropriate length of time.

Permanent records. Permanent records are records required by law to be permanently retained and which are ineligible for destruction at any time for any reason. These records are necessary for the continuity of business and the protection of the rights and interests of Cultura Brasil in Austin and of individuals. These include records such as organizational documents (Articles of Incorporation and Bylaws), Board minutes and policies, federal and state tax exempt status and independent audits.

Pending claims and litigation

The retention periods set forth in the attached record retention schedule shall not apply to materials that are otherwise eligible for destruction, but which may be relevant to a pending claim or litigation against Cultura Brasil in Austin. Once the Cultura Brasil in Austin becomes aware of the existence of a claim against Cultura Brasil in Austin, Cultura Brasil in Austin will retain all documents and other materials related to the claim until such time as the claim or subsequent litigation has been resolved. When Cultura Brasil in Austin has reason to believe that one or more other related locations or entities have records relating to the claim or litigation, those departments will also be notified by Cultura Brasil in Austin of the need to retain such records.

Corporate Records; Permanent

- Annual Reports to Secretary of State/Attorney General
- Certificate of Formation and all amendments
- Board Meeting and Board Committee Minutes
- Board Policies/Resolutions
- By-laws
- Construction Documents
- Fixed Asset Records

- IRS Application for Tax-Exempt Status (Form 1023)
- IRS Determination Letter
- State Sales Tax Exemption Letter
- Accounting and Corporate Tax Records - Permanent
- Annual Audits and Financial Statements
- Depreciation Schedules
- General Ledgers
- IRS 990 Tax Returns

- Bank records - Permanent
- Check Registers
- Payroll and Employment Tax Records; Permanent
- Payroll Registers
- State Unemployment Tax Records
- Employee Records; Permanent
- Employment and Termination Agreements
- Retirement and Pension Plan Documents
- Legal, Insurance and Safety Records - Permanent
- Appraisals
- Copyright Registrations
- Environmental Studies
- Insurance Policies
- Real Estate Documents
- Stock and Bond Records
- Trademark Registrations

Non-permanent records. Certain records are not required by law to be permanently retained and may be destroyed after the passage of certain years or upon the passing of events as defined by these policies.

Notwithstanding the listing of documents, no record, whether or not referenced may be destroyed if in any way the records refer to, concern, arise out of or in any other way are involved in pending or threatened litigation.

| | |
|------------------------------|---------|
| Corporate Records | |
| Contracts (after expiration) | 7 years |
| Correspondence (general) | 3 years |

| | |
|--|---------|
| Accounting and Corporate Tax Records | |
| Business Expense Records | 7 years |
| IRS 1099s | 7 years |
| Journal Entries | 7 years |
| Invoices | 7 years |
| Sales Records (box office, concessions, gift shop) | 5 years |
| Petty Cash Vouchers | 3 years |
| Cash Receipts | 3 years |
| Credit Card Receipts | 3 years |

| | |
|------------------------------------|---------|
| Bank Records | |
| Bank Deposit Slips | 7 years |
| Bank Statements and Reconciliation | 7 years |
| Electronic Fund Transfer Documents | 7 years |

| | |
|------------------------------------|---------|
| Payroll and Employment Tax Records | |
| Earnings Records | 7 years |
| Garnishment Records | 7 years |
| Payroll Tax returns | 7 years |
| W-2 Statements | 7 years |

| | |
|---|---------------------------|
| Legal, Insurance and Safety Records | |
| Donor Records and Acknowledgement Letters | 7 years |
| Grant Applications and Contracts | 5 years after completion |
| Leases | 6 years after expiration |
| OSHA Documents | 5 years |
| General Contracts | 4 years after termination |

Cultura Brasil in Austin 's records will be stored in a safe, secure and accessible manner. All documents and financial files that are essential to keeping Cultura Brasil in Austin operating in an emergency will be duplicated or backed up at least every week and maintained off site. All other documents and financial files will be duplicated or backed up periodically as identified by the Executive Director/ CEO or other person as designated by the Executive Director/ CEO and maintained off-site.

Storage of records

Records may be stored in the Cultura Brasil in Austin 's office if the records are in active use or are maintained in the office for convenience or ready reference. Examples of active files appropriately maintained in Cultura Brasil in Austin 's office space include active chronological files, research and reference files, legislative drafting files, pending complaint files, administrative files, and personnel files. Inactive records, for which use, or reference has diminished sufficiently to permit removal from Cultura Brasil in Austin 's office, may be sent to an off-site storage facility.

Storage records. Storage records are records that are retained off-site. Storage records are subject to the same retention requirements as current records. Example of storage records include invoices and payroll reports.

Where no retention period specified by law. Where no specific retention period is specified by law, the retention period for records that Cultura Brasil in Austin is required to retain shall be specified in the Record Retention and Destruction Schedule. Records shall be retained for a minimum of two years, although such records may be treated as "storage records" and placed in storage at any time during the applicable retention period. Examples of current records include correspondence, schedules, and administrative records.

No Retention Required. Documents and other materials that are not "records" need not be retained unless retention is otherwise required by local law or by the Record Retention and Destruction Schedule. Documents and other materials (including originals and duplicates) that are not otherwise required to be retained, are not necessary to the functioning or continuity of Cultura Brasil in Austin and which have no legal significance may be destroyed when no longer needed. Examples include materials and documents generated for the convenience of the person generating them, draft

documents (other than some contracts) that have been superseded by subsequent versions, or rendered moot by organizational action, and duplicate copies of records that are no longer needed. Specific examples include telephone message slips, miscellaneous correspondence not requiring follow-up or departmental action, notepads, emails, that do not contain information required to be retained under this policy and chronological files.

Document destruction will be suspended immediately, upon any indication of an official investigation or when a lawsuit is filed or appears imminent. Destruction will be reinstated upon conclusion of the investigation or claim, whichever is latest.

The Executive Director/ CEO or other representative as designated by the Executive Director/ CEO is responsible for the ongoing process of identifying its records which have met the required retention period and overseeing their destruction. Destruction of financial and personnel-related documents will be accomplished by shredding.

Failure on the part of employees to follow this policy can result in possible civil and criminal sanctions against Cultura Brasil in Austin and its employees and possible disciplinary action against responsible individuals.

Questions concerning these policies, the applicability of certain records to the retention or destruction policies, must be addressed to the Executive Director/ CEO or other individual as designated by the Executive Director/ CEO.

Appendix C: Whistleblower Protection Policy [Reporting of Improprieties Policy]

Adopted by the Board on _____

Cultura Brasil in Austin requires directors and officers to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As representatives of Cultura Brasil in Austin, we must practice honesty and integrity in fulfilling our responsibilities and complying with all applicable laws and regulations.

It is the responsibility of all directors and officers to comply with the rules of Cultura Brasil in Austin and to report violations of law or suspected violations of law in accordance with this Whistleblower Protection Policy.

No director or officer, who in good faith reports a violation of law shall suffer harassment, retaliation, or adverse employment consequence.

It is the intent of Cultura Brasil in Austin to adhere to all laws and regulations that apply to Cultura Brasil in Austin and the purpose of this policy is to support Cultura Brasil in Austin 's goal of legal compliance. The support of all employees is necessary to achieving compliance with various laws and regulations. An employee is protected from retaliation only if the employee brings the alleged unlawful activity, policy, or practice to the attention of Cultura Brasil in Austin and provides Cultura Brasil in Austin with a reasonable opportunity to investigate and correct the alleged unlawful activity. The protection described below is only available to employees that comply with this requirement.

Cultura Brasil in Austin will not retaliate against an employee who in good faith, has made a protest or raised a complaint against some practice of Cultura Brasil in Austin or of another individual or entity with whom Cultura Brasil in Austin has a business relationship, on the basis of a reasonable belief that the practice is in violation of law, or a clear mandate of public policy.

Cultura Brasil in Austin will not retaliate against employees who disclose or threaten to disclose to a supervisor or a public body, any activity, policy, or practice of Cultura Brasil in Austin that the employee reasonably believes is in violation of a law, or a rule, or regulation mandated pursuant to law or is in violation of a clear mandate or public policy concerning the health, safety, welfare, or protection of the environment.

If any employee reasonably believes that some policy, practice, or activity of Cultura Brasil in Austin is in violation of law, a written complaint must be filed by that employee with the Executive Director/ CEO or the Board President (only if the complaint involves the Executive Director/ CEO).

Cultura Brasil in Austin will not retaliate against an employee in the terms and conditions of employment because that employee: (a) reports to a supervisor, to the executive director, the Board of Directors or to a federal, state or local agency what the employee believes in good faith to be a violation of the law; or (b) participates in good faith in any resulting investigation or proceeding, or (c) exercises his or her rights under any state or federal law(s) or regulation(s) to pursue a claim or take legal action to protect the employee's rights.

Cultura Brasil in Austin invites employees to share their questions, concerns, suggestions, or complaints with someone who can address them properly. In most cases, an employee's immediate supervisor is in the best position to address an area of concern. However, if you are not comfortable speaking with your supervisor or you are not satisfied with your supervisor's response, you are encouraged to speak with the Executive Director/ CEO or anyone in management whom you are comfortable in approaching.

Cultura Brasil in Austin's Compliance Officer is responsible for investigating and resolving all reported complaints and allegations concerning violations of policy, and, at his/her discretion, shall advise senior management and/or the appropriate board committee. The Compliance Officer has direct access to the board of directors. The Executive Director/ CEO shall serve as the Compliance Officer or designate

Anyone filing a complaint concerning a violation or suspected violation of law must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation of the law in order to be assured protection against retaliation under this policy. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation and appropriate corrective action will be taken if warranted by the investigation.

Cultura Brasil in Austin may take disciplinary action, up to and including termination, against an employee who in management's assessment has engaged in retaliatory conduct in violation of this policy.