

**BYLAWS**

**of**

**THE RETAIL CONSUMER ALLIANCE FOUNDATION, INC.**

**(Adopted: February 11, 2008)**

**Amended: October 20, 2009**

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**ARTICLE I**

**Purposes**

The purposes of the Retail Consumer Alliance Foundation, Inc. ("hereafter referred to as "Foundation") are:

To carry on educational, literary, scientific and charitable purposes ~~or any of them~~, both directly and ~~by the application of assets to the use of~~ in collaboration with its sole supported organization, the North Carolina Retail Merchants Association (the "Association") ~~for charitable, scientific, literary or educational purposes, or to any other Foundation, trust, fund or foundation whose purposes and operations are charitable, scientific, literary or educational,~~ including, but not limited to:

- ~~(a) Fostering and maintaining the education and integrity of the retail profession;~~
- ~~(b)(a)~~ Promoting the education of students interested in entering the field of retail or students connected to the field of retail;
- ~~(c) Publishing and to distributing studies, reports, and other written materials to educate retailers;~~
- ~~(d) Maintaining a retail research center;~~
- ~~(e)(b)~~ Improving the role, value and contributions of the retail industry so that the retail industry will be recognized as an integral part of the communities ~~and customers~~ the retail industry serves;
- ~~(f)(c)~~ Developing and supporting education, research and charitable initiatives ~~that advance the retail industry~~ for the benefit of the public ~~they~~ served d by the retail industry; and
- ~~(g)(d)~~ Providing charitable donations to groups to prevent hunger in North Carolina and South Carolina.

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~~p~~Provided, however, that no part of the net earnings of the Foundation shall inure to the benefit of any private member or individual, and provided further that no substantial part of its

activities shall involve the carrying on of propaganda, or otherwise attempting to influence legislation, and provided further that the Foundation shall not participate in or intervene in (including the publishing or distributing of statements) any political candidate for office.

## ARTICLE II

### Offices

The Foundation shall have and continuously maintain in this state a registered office and a registered agent whose office is identical with such registered office, and may have such other offices within or without the State of North Carolina as the Board of Directors may from time to time determine.

## ARTICLE III

### Members

~~Section 1. — Members. — The members of the Foundation shall be the persons who from time to time are members of the North Carolina Retail Merchants Association or the Carolinas Food Industry Council. Any person who ceases to be a member of the North Carolina Retail Merchants Association or the Carolinas Food Industry Council shall cease to be a member of this Foundation.~~

~~Section 2. — Voting. — Each member shall be entitled to one vote on each matter submitted to a vote of the members. A member may vote in person or by proxy executed in writing by such member or by his duly authorized attorney in fact. No proxy shall be valid after eleven (11) months from the date of execution.~~

~~Section 3. — Transfer of Membership. — Membership in this Foundation is not transferable or assignable.~~

## ARTICLE IV

### Meeting of Members

~~Section 1. — Annual Meeting. — An annual meeting of the members shall be held in each year immediately following the adjournment of the Annual Meeting of the North Carolina Retail Merchants Association and in the same city and county in which said meeting is held, for the purpose of electing directors and for the transaction of such other business as may come before the meeting.~~

~~Section 2. — Special Meetings. — Special meetings of the members may be called either by the President, the Board of Directors, or three or more of the members.~~

~~Section 3. — Place of Meeting. — The Board of Directors may from time to time designate any place, either within or without the State of North Carolina, as the place of~~

~~meeting for any annual meeting or for any special meeting of members.~~

~~Section 4. Notice of Meetings. Written or printed notice stating the place, day and hour of any meeting of members shall be delivered, either personally or by mail, to each member entitled to vote at such meeting, not less than five (5) nor more than forty (40) days before the date of such meeting, by or at the direction of the President, or the Secretary, or the persons calling the meeting. In case of a special meeting or when required by statute or by these Bylaws, the purpose for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed delivered when deposited in the United States mail addressed to the member at their address as it appears on the records of the Foundation, with postage thereon prepaid. Any meeting shall be deemed to be validly called at which all of the members are present.~~

~~Section 5. Quorum. A majority of the members shall constitute a quorum at any meeting. If a quorum is not present at any meeting of members, a majority of the members present may adjourn the meeting from time to time without further notice.~~

~~Section 6. Action by Members Without a Meeting. Any action required to be taken at a meeting of the members may be taken without a meeting, if a consent in writing setting forth the action so taken shall be signed by all of the members entitled to vote with respect to the subject matter thereof and filed with the secretary of the Foundation as part of the corporate records, whether done before or after the action is taken.~~

## **ARTICLE IV**

### **Board of Directors**

Section 1. General Powers and Composition. The affairs of the Foundation shall be managed by its Board of Directors, the members of which shall be elected by and from among the members of the Board of Directors of the North Carolina Retail Merchants Association, including or the Carolinas Food Industry Council, a wholly owned division of the Association.

Section 2. Tenure and Qualifications. Each director shall hold office until the next annual meeting of the members-directors following their election and until a successor is elected and qualified. ~~Directors need not be residents of North Carolina but shall be members of the Foundation. Any director who ceases to be a member of the Foundation shall cease being a director of the Foundation.~~

Section 3. Regular Meetings. A regular annual meeting of the Board of Directors shall be held without other notice than by this bylaw. The Board of Directors may provide by resolution the time and place, within or without the State of North Carolina, for the holding of any annual or regular meetings of the Board without other notice than such resolution.

Section 4. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or three or more of the directors. The person or

persons authorized to call special meetings of the Board may fix as the place any place, either within or without the State of North Carolina, as the place for holding such special meeting.

Section 5. Notice. Notice of any special meeting of the Board of Directors shall be given at least two days previously thereto by written notice delivered personally or sent by mail or electronic means to each director at his address as shown on the records of the Foundation. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law.

Section 6. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board, provided that if less than a majority of the directors are present at the meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Section 7. Vacancies. Any vacancy occurring in the Board of Directors shall be filled by a vote of the members. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Section 8. Compensation. Directors as such shall not receive any stated compensation for their services, but by resolution of the Board may be reimbursed for their expenses of attendance at meetings of the Board.

Section 9. Executive Committee.

(a) Composition. The Executive Committee shall be composed of the Officers of the Foundation as provided for in Article ~~IV~~ of these Bylaws.

(b) Powers and Duties. The Executive Committee shall have all the powers and duties of the Board of Directors when the Board is not in session except that it shall not have authority as to the following matters:

- (i) The dissolution, merger or consolidation of the Foundation; the amendment of the charter of the Foundation; or the sale, lease or exchange of all or substantially all of the property of the Foundation;
- (ii) The designation of any other Committee or the filling of vacancies in the Board of Directors;
- (iii) The amendment or repeal of the Bylaws, or the adoption of new Bylaws;
- (iv) The amendment or repeal of any resolution of the Board of Directors which by its terms shall not be so amendable or

repealable; and

(v) Any other matter which the Board of Directors from time to time by resolution specifically reserves itself.

(c) Quorum. A majority of the Executive Committee shall constitute a quorum at any meeting. Unless otherwise specified, action at a meeting of the Executive Committee shall be by a majority of the quorum.

(d) Meetings. The Executive Committee shall meet at the call of the President of the Foundation or by any of its members. Meetings may be conducted by conference call or other electronic means so long as all members of the quorum can speak to the group and can hear all deliberations.

(e) Notice of Meetings. Notice of each meeting of the Executive Committee shall be given at least ten (10) days in advance of such meeting if by mail, and at least three (3) days in advance of such meeting if by electronic means or any actual delivery of the notice to the Committee members.

Section 10. Informal Action by Directors or Committees; Attendance by Telephone.

(a) Action taken by a majority of the directors or members of a Committee without a meeting is nevertheless Board or Committee action if written consent to the action in question is signed by all the directors or members of the Committee, as the case may be, and filed with the minutes of the proceedings of the Board or Committee, whether done before or after the action is taken.

(b) If a meeting of directors otherwise valid is held without proper call or notice, action taken at such meeting otherwise valid is deemed ratified by a director who did not attend unless promptly after having knowledge of the action taken and of the impropriety in question he or she files with the secretary or assistant secretary of the Foundation his or her written objection to the holding of the meeting or to any specific action so taken.

(c) Any one or more directors or members of a Committee may participate in a meeting of the Board or Committee by means of a conference telephone or similar communications device which allows all persons participating in the meeting to hear each other and such participation in a meeting shall be deemed presence in person at such meeting.

**ARTICLE IVI**

**Officers**

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

Section 2. Election, Qualification and Term of Office. The officers of the Foundation shall be elected annually by the Board of Directors at its regular annual meeting from among the members of the Board of Directors. Vacancies may be filled or new offices created and filled at any meeting of the Board of Directors. Each officer shall hold office until a successor is duly elected and qualified.

Section 3. Duties of Officers. The duties of the officers shall be such as usually attach to such offices and, in addition thereto, such further duties as may be designated from time to time by the Board of Directors.

Section 4. Bonding of Treasurer and Other Officers. At the direction of the directors, the Treasurer and/or any other officer or employee of the Retail Consumer Alliance Foundation, Inc. shall be bonded.

Section 5. Authority. The President, at the direction of the Board of Directors, is fully empowered to act as an agent for the Foundation.

## ARTICLE VI

### Contracts, Checks, Deposits, Funds and Fiscal Year.

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents of the Foundation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Foundation and such authority may be general or confined to specific instances.

Section 2. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes, or other evidence of indebtedness issued in the name of the Foundation shall be signed by such officer or other officers, agent or agents of the Foundation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 3. Deposits. All funds of the Foundation shall be deposited to the credit of the Foundation in such banks, trust companies or other depositories as the Board of Directors may select.

Section 4. Gifts. The Board of Directors may accept on behalf of the Foundation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Foundation.

Section 5. Fiscal Year. The fiscal and business year of the Foundation shall be determined by the Board of Directors.

## ARTICLE VII

### Books and Records

The Foundation shall keep correct and complete books and records of account and shall

also keep minutes of the proceedings of its ~~members and~~ Board of Directors and Committees thereof, and shall keep at the registered or principal office a record giving the names and addresses of the members. All books and records of the Foundation may be inspected by any member, or their agent or attorney for any proper purpose at any reasonable time.

**ARTICLE ~~VIII~~ IX**

**Dues**

~~No dues shall be paid by the members of the Foundation.~~

**ARTICLE ~~IX~~ X**

**Seal**

The seal of the Foundation as impressed on the margin hereof shall be the Foundation seal of the Foundation.

**ARTICLE ~~VIII~~ XI**

**Waiver of Notice**

Whenever any notice whatsoever is required to be given under the provisions of the Non-Profit Corporation Act of the State of North Carolina or under the provisions of the Articles of Incorporation or the Bylaws of the Foundation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

**ARTICLE ~~IX~~ XII**

**Amendments to Bylaws**

These Bylaws may be amended by ~~the members of the Foundation or by~~ the Board of Directors ~~as follows:~~

~~(a) By the Members of the Foundation. These Bylaws may be amended at any Annual or Special Meeting of the members of the Foundation by a two thirds vote of the members present and voting at such meeting at which the amendment is considered, provided that notice in writing of the proposed amendment shall be given at least thirty (30) days prior to such meeting.~~

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~~(b) By the Board of Directors. These Bylaws may be amended by a three-fourths vote of the full membership of the Board of Directors at any meeting, the notice of which is in writing, and is mailed to the members of the Board not less than ten (10) days before the meeting. Such amendments by the Board of Directors, however, shall be effective~~

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~~only until the adjournment of the next Annual Meeting of the members of the Foundation.~~

## **ARTICLE XIII**

### **Indemnification**

Any person who at any time serves or has served as a member of the Board of Directors, officer, employee, agent or Committee member of the Foundation , or in such capacity at the request of the Foundation for any other Foundation , partnership, joint venture, trust or other enterprise, shall have a right to be indemnified by the Foundation to the fullest extent permitted by law against (a) reasonable expenses, including attorneys' fees, actually and necessarily incurred by that person in connection with any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative, or investigative, and including any derivative action or proceeding on behalf of the Foundation , seeking to hold that person liable by reason of the fact that he or she is or was acting in such capacity, and (b) reasonable payments made by that person in satisfaction of any judgment, money decree, fine, penalty or settlement for which he or she may have become liable in any such action, suit or proceeding. In no event, however, shall there be any indemnification when the Foundation itself brings any of the above proceeding upon specific authorization of the Board of Directors, unless the Board of Directors subsequently specifically determines indemnification to be appropriate.

The Board of Directors of the Foundation shall take all such action as may be necessary and appropriate to authorize the Foundation to pay the indemnification required by this Bylaw, including without limitation, to the extent needed, making good faith evaluation of the manner in which the claimant for indemnity acted and of the reasonable amount of indemnity due and giving notice to, and obtaining approval by, the members of the Foundation.

Any person who at any time after the adoption of this Bylaw serves or has served in any of the aforesaid capacities for or on behalf of the Foundation shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein. Such right shall inure to the benefit of the legal representatives of any such person and shall not be inclusive of any other rights to which such person may be entitled apart from the provision of this Bylaw.

## **ARTICLE XIV**

### **Dissolution**

In the event the Foundation should be dissolved for any reason, any remaining assets shall be distributed for purposes within the scope of the Internal Revenue Service Code 501(c)(3), or any amendment thereto, ~~as provided in the Foundation's Articles of Incorporation.~~

## **Article XV**

### **Parliamentary Authority**

The rules contained in Robert's Rules of Order Newly Revised, shall govern the Foundation in all cases to which they are applicable and in which they are not inconsistent with these bylaws and/or the Foundation's Articles of Incorporation.

| Adopted this, the 11<sup>th</sup> day of ~~March~~ February, 201008.

\_\_\_\_\_  
Fran E. Preston  
President

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, \_\_\_\_\_, a Notary Public for said County and State, do hereby certify that Fran E. Preston personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

| WITNESS my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 201008.

\_\_\_\_\_  
Notary Public

My Commission Expires:

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[SEAL]