

**THIRD AMENDED AND RESTATED BYLAWS OF BMW MOTORCYCLE OWNERS
OF AMERICA (MOA) FOUNDATION**

(A PENNSYLVANIA NONPROFIT CORPORATION)

**APPROVED AND EFFECTIVE JANUARY 25, 2006 AS AMENDED APRIL 4, 2017
AND NOVEMBER 9, 2019**

ARTICLE I: NAME AND PURPOSE

Section 1.1. Name.

The name of the Corporation is BMW Motorcycle Owners of America (MOA) Foundation hereinafter referred to as the “Corporation” and also sometimes referred to as “BMW MOA Foundation”), incorporated under the Pennsylvania Nonprofit Corporation Law of 1988 on March 29, 2000.

Section 1.2. Purpose.

The Corporation is formed exclusively for charitable, scientific, testing for public safety, and educational purposes, all within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as the same may be amended or modified or replaced by any future United States internal revenue law (the “Code”), including, without limitation, to celebrate the heritage and enhance the experiences of the motorcycling community through the provision of educational programs.

ARTICLE II: DIRECTORS

Section 2.1. General Powers.

The property and business of the Corporation shall be managed

under the direction of the Board of Directors of the Corporation.

Section 2.2. Number, Election and Term of Office.

The number of directors shall be nine (9) at least seven (7) of whom shall be members of BMW MOA. The term of office shall be two (2) years. Five (5) of the Corporation's directors shall be appointed in odd numbered years, and four (4) shall be appointed in even numbered years. All of the directors shall be selected by the Directors of Corporation as constituted at the time of their selection. The selection of directors by the Corporation shall occur at the final quarterly annual meeting of the Corporation and shall, for purposes of selecting their successors, include the current directors whose terms are expiring at the time of the selection. No director shall serve as such for longer than six (6) consecutive years.

Section 2.2.1 Nomination and Election of Directors.

(a) Directors. At least thirty (30) days prior to the last quarterly meeting of the Board of Directors of Corporation, a Nominating Committee appointed by the Board of Directors of Corporation shall decide upon a slate of proposed directors to succeed the retiring Directors, selected by Corporation, and shall present such slate to the Board of Directors of the Corporation not fewer than twenty (20) days prior to said Annual Meeting. Upon written request of any member of the Board of Directors additional nominees for the Board of Directors to be selected by Corporation for the forthcoming year shall be submitted and, thereafter, the directors of the Corporation (to be selected by Corporation) for the forthcoming year shall be selected by a vote of a majority of the Directors, or in the event of a stalemate in such election, then by a majority of the entire Board of Directors, at the next final quarterly meeting of the Board of Directors.

Section 2.2.2. Filling of Vacancies.

(a) Directors. In the case of any vacancy in the Board of Directors of Corporation as selected by the Directors of Corporation through death, resignation, disqualification, removal or other cause, the remaining directors of Corporation, by affirmative vote of the

majority thereof, may elect a successor to hold office for the unexpired portion of the term of the director whose place shall be vacant, and until the election of a successor, or until he shall be removed, prior thereto, by an affirmative vote of the majority of the entire Board of Directors of Corporation. Any director may be removed from office with cause by the affirmative vote of a majority of the entire Board of Directors of Corporation at any regular meeting or special meeting of the Board of Directors of Corporation called for that purpose.

Section 2.3. Duty to Protect Tax Exempt Status.

Regardless of the manner in which a director is appointed or elected to serve on the Board of Directors of the Corporation, each and every director is to strictly adhere to, and shall be under a duty to cause the Corporation and the Board of Directors to adhere to the non-profit purposes of the Corporation as set forth in Section 1.2 above, and any actions in violation thereof shall be void. In his/her capacity as a director, each director specifically shall not:

- a) participate in the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office;
- b) participate in or carry on any other activities not permitted to be carried on:
 - (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or
 - (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code;
- c) cause the Corporation to become subject to the tax on the undistributed income imposed by section 4924 of the Internal

Revenue Code, or the corresponding section of any future federal tax code;

d) cause the Corporation to engage in any act of self-dealing as defined in section 4941(d) of the Internal Revenue Code, or the corresponding section of any future federal tax code;

e) cause the Corporation to retain any excess business holdings as defined in section 4943(c) of the Internal Revenue Code, or the corresponding section of any future federal tax code;

f) cause the Corporation to make any investments in a manner as to subject it to tax under section 4944 of the Internal Revenue Code, or the corresponding section of any future federal tax code; or

g) cause the Corporation to make any taxable expenditures as defined in section 4945 of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Section 2.4. Regular Meetings: Notice.

Regular meetings of the Board of Directors of Corporation shall be held at such time and place as shall be designated by the Board of Directors from time to time. Notice of such regular meetings shall not be required, except as otherwise expressly required herein or by law, and except that whenever the time or place of regular meetings shall be initially fixed and then changed, notice of such action shall be given promptly by telephone or otherwise to each Director not participating in such action. Any business may be transacted at any regular meeting.

Section 2.5. Annual Meeting of the Board.

The annual organizational meeting of the Corporation Board of Directors shall be held at the first meeting of the calendar year. Other meetings of the Board of Directors of Corporation shall be held at such date, time and place as may be fixed by the Board of Directors.

Section 2.6. Meetings and Locations.

Unless changed by a majority of the Board, there shall be four quarterly meetings annually. Unless otherwise agreed by the Board, each meeting shall be co-located and concurrent with the quarterly meetings of the MOA Board.

Section 2.6.1 Special Meetings: Notice.

Special meetings of the Board of Directors of Corporation may be called at any time by the Board itself, or by the Chairman or the President, or by at least three (3) Directors, to be held at such place and day and hour as shall be specified by the person or persons calling the meeting. Notice of every special meeting of the Board of Directors shall be given by the Secretary to each Director at least seven days before the meeting. The only business that may be transacted at such special meeting shall be limited to the business identified in the notice of the meeting. Any director may participate by phone at said meeting.

Section 2.6.2. Organization.

At all meetings of the Board of Directors, the presence of a majority of the Directors in office shall be necessary and sufficient to constitute a quorum for the transaction of business. If a quorum is not present at any meeting, the meeting may be adjourned from time to time by a majority of the Directors present until a quorum as aforesaid shall be present, but notice of the time and place to which such meeting is adjourned shall be given to any Directors not present either by being sent by email or given personally or by telephone at least eight hours prior to the hour of reconvening. Resolutions of the Board shall be adopted, and any action of the Board upon any matter shall be valid and effective, with the affirmative vote of a majority of the Directors present at a meeting duly convened and at which a quorum is present. The Chairman of the Board, if one has been elected and is present, or if not, the President, if he is a Director and is present, or if not, a Director designated by the Board, shall preside at each meeting of the Board.

The Secretary, or in his absence any Assistant Secretary, shall take the minutes at all meetings of the Board of Directors. In the absence of the Secretary and an Assistant Secretary, the presiding officer shall designate any person to take the minutes of the meeting.

Section 2.7. Meetings by Telephone.

One or more Directors may participate in any regular or special meeting of the Board of Directors or of a committee of the Board of Directors by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participants in a meeting in this manner by a Director will be considered to be attendance in person for all purposes under these Bylaws.

Section 2.8. Presumption of Assent.

Minutes of each meeting of the Board shall be made available to each Director at or before the next succeeding meeting. Each Director shall be presumed to have assented to such minutes unless his objection thereto shall be made to the Secretary at or within two days after such succeeding meeting.

Section 2.9. Catastrophe.

Notwithstanding any other provisions of the Pennsylvania Nonprofit Corporation Law of 1988, the Articles or these Bylaws, if any emergency resulting from warlike damage or an attack on the United States or any nuclear or atomic disaster, or any other national or local disaster, causes a majority of the Board to be incapable of acting as such because of death or other physical disability or difficulties of communication or transportation, the other Director or Directors shall constitute a quorum for the sole purpose of electing Directors to replace the Directors so incapable of acting. The Directors so elected shall serve until such replaced Directors are able to attend meetings of the Board or until the Board acts to elect Directors for such purpose. Questions as to the existence of such an emergency or disaster or as to the fact of such incapacity shall be conclusively determined by such other Director or Directors.

Section 2.10. Resignations.

Any Director may resign by submitting his resignation to the Secretary. Such resignation shall become effective upon its receipt by the Secretary or as otherwise specified therein.

Section 2.11. Committees.

By resolution adopted by a majority of the whole Board, standing or temporary committees, consisting of at least two Directors may be appointed by the Board of Directors from time to time. Each such committee shall have and exercise such authority of the Board of Directors in the management of the business and affairs of the Corporation as the Board may specify from time to time, which may include any action which the Pennsylvania Nonprofit Corporation Law of 1988 provides shall or may be taken by the Board of Directors. The Board may designate one or more Directors as alternate members of any committee to replace any absent or disqualified member at any meeting of the committee, and in the event of such absence or disqualification, the member or members of such committee present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another Director to act at the meeting in the place of any such absent or disqualified member. Any action taken by any committee shall be subject to alteration or revocation by the Board of Directors; provided, however, that third parties shall not be prejudiced by such alteration or revocation.

Section 2.12. Personal Liability of Directors.

(a) Elimination of Liability. To the fullest extent that the laws of the Commonwealth of Pennsylvania, as now in effect or as hereafter amended, permit elimination or limitation of the liability of directors, no Director of the Corporation shall be personally liable for monetary damages as such for any action taken, or any failure to take any action, as a Director.

(b) Nature and Extent of Rights. The provisions of this Section shall be deemed to be a contract with each Director of the Corporation

who serves as such at any time while this Section is in effect and each such Director shall be deemed to be so serving in reliance on the provisions of this Section. Any amendment or repeal of this Section or adoption of any Bylaw or provision of the Articles of the Corporation which has the effect of increasing director liability shall operate prospectively only and shall not affect any action taken, or any failure to act, prior to the adoption of such amendment, repeal, Bylaw or provision.

Section 2.13. Indemnification.

(a) Right to Indemnification.

(1) As used herein, the word "Action" shall mean any action, suit or proceeding, administrative, investigative or other, (i) to which such person is a party (other than an action by the Corporation) or (ii) in connection with which such person is not a party but is a witness, subject to investigation or otherwise involved, in either case by reason of such person being or having been a Director or officer of the Corporation.

(2) Unless in a particular case indemnification would jeopardize the Corporation's tax exempt status under Section 501(a) of the Code or result in the Corporation's failure to be described in Section 501(c) (3) of the Code, and except as prohibited by law, each Director and officer of the Corporation shall be entitled as of right to be indemnified by the Corporation against expenses and any liability paid or incurred by such person (i) in the defense of any Action to which such person is a party or (ii) in connection with any other Action.

(3) A person who is not a Director or officer of the Corporation may be similarly indemnified in respect of service to the Corporation to the extent the Board at any time designates such person as entitled to the benefits of this Section.

(4) As used in this Section, "Indemnitee" shall include each Director and each officer of the Corporation and each other

person designated by the Board as entitled to the benefits of this Section; “liability” shall include amounts of judgments, excise taxes, fines, penalties and amounts paid in settlement; and “expenses” shall include fees and expenses of counsel incurred by the Indemnitee only; (i) if the Corporation has not at its expense assumed the defense of the Action on behalf of the Indemnitee with reputable and experienced counsel selected by the Corporation, or (ii) if it shall have been determined pursuant to Section (c) hereof that the Indemnitee was entitled to indemnification for expenses in respect of an action brought under that Section.

(b) Right to Advancement of Expenses.

Unless in a particular case advancement of expenses would jeopardize the Corporation’s tax exempt status under Section 501(a) of the Code or result in the Corporation’s failure to be described in Section 501(c)(3) of the Code, every indemnitee shall be entitled as of right to have his expenses in defending any Action paid in advance by the Corporation, as incurred, provided that the Corporation receives a written undertaking by or on behalf of the Indemnitee to repay the amount advanced if it should ultimately be determined that the indemnitee is not entitled to be indemnified for such expenses.

(c) Right of Indemnitee to Initiate Action; Defenses.

(1) If a written claim under paragraph (a) or paragraph (b) of this Section is not paid in full by the Corporation within thirty days after such claim has been received by the Corporation, the indemnitee may at any time thereafter initiate an action to recover the unpaid amount of the claim and, if successful in whole or in part, the indemnitee shall also be entitled to be paid the expense of prosecuting such action.

(2) The only defenses to an action to recover a claim for indemnification otherwise properly asserted under paragraph

(a) shall be; (i) that the indemnitee's conduct was such that under applicable law the Corporation is prohibited from indemnifying the indemnitee for the amount claimed, or (ii) that indemnification would jeopardize the Corporation's tax exempt status under Section 501(a) of the Code or result in the Corporation's failure to be described in Section 501(c)(3) of the Code, but the burden of proving any such defense shall be on the Corporation.

(3) The only defense to an action to recover a claim for advancement of expenses otherwise properly asserted under paragraph (b) shall be that the indemnitee failed to provide the undertaking required by paragraph (b).

(d) Non-Exclusivity; Nature and Extent of Rights.

The rights to indemnification and advancement of expenses provided for in this Section shall; (i) not be deemed exclusive of any other rights to which any indemnitee may be entitled, (ii) be deemed to create contractual rights in favor of each indemnitee who serves the Corporation at any time while this Section is in effect (and each such indemnitee shall be deemed to be so serving in reliance on the provisions of this Section), and (iii) continue as to each indemnitee who has ceased to have the status pursuant to which he was entitled or was designated as entitled to indemnification under this Section and shall inure to the benefit of the heirs and legal representatives of each indemnitee.

Section 2.16. Indemnification of BMW MOA.

The Corporation is a separate entity formed to undertake educational activities of interest to motorcycle enthusiasts. The BMW MOA has permitted the Corporation to include the name of the organization in the Corporation's name, and in return therefore, the Corporation shall indemnify and hold harmless the BMW MOA for any expenses or damages resulting from the actions of the Corporation.

ARTICLE III: OFFICERS AND EMPLOYEES

Section 3.1. Executive Officers.

The Officers of the Corporation shall be the President, a Vice President, the Secretary and the Treasurer. Said officers shall be selected from the Board of Directors and shall serve as officer for a one year term and may be re elected so long as they are eligible to be a director of the Corporation. Officers shall assume office at the Winter Directors meeting and the term shall be for one year from that day.

Section 3.2. The President.

The President shall be the chief executive officer of the Corporation. Subject to the control of the Board of Directors, the President shall have general supervision of and general management and executive powers over all the property, operations, business, affairs and employees of the Corporation, and shall see that the policies and programs adopted or approved by the Board are carried out. The President shall exercise such further powers and duties as from time to time may be prescribed in these Bylaws or by the Board of Directors.

Section 3.3. The Vice Presidents.

The Vice Presidents may be given by resolution of the Board general executive powers, subject to the control of the President, concerning one or more or all segments of the operations of the Corporation. The Vice Presidents shall exercise such further powers and duties as from time to time may be prescribed in these Bylaws or by the Board of Directors or the President. At the request of the President, or in his absence or disability, the senior Vice President shall exercise the powers and duties of the President.

Section 3.4. The Secretary.

It shall be the duty of the Secretary (a) to keep an original or duplicate record of the proceedings of the Board of Directors, and a copy of the Articles and of the Bylaws; (b) to give such notices as may be required by law or these Bylaws; (c) to be custodian of the corporate records and of the seal of the Corporation and see that the seal is affixed to such documents as may be necessary or advisable (d) to keep the Corporation's contracts, insurance policies, leases, deeds and other business records; (e) to see that the Corporation's lists, books, reports, statements, tax returns, certificates and other documents and records required by law are properly prepared, kept and filed. The Secretary shall keep minutes of all Board meetings.

Section 3.5. Treasurer.

It shall be the duty of the Treasurer; (a) to be the principal officer in charge of tax and financial matters, budgeting and accounting of the Corporation; (b) to have charge and custody of and be responsible for the Corporation's funds, securities and investments; (c) to receive and give receipts for checks, notes, obligations, funds and securities of the Corporation, and deposit monies and other valuable effects in the name and to the credit of the Corporation, in such depositories as shall be designated by the Board of Directors; (d) to cause the funds of the Corporation to be disbursed by payment in cash or checks or drafts upon the authorized depositories of the Corporation, and to cause to be taken and preserved proper vouchers for such disbursements; (e) to render to the President and the Board of Directors whenever they may require it an account of all his/her transactions as Treasurer, and reports as to the financial position and operations of the Corporation; (f) to keep appropriate, complete and accurate books and records of account of all the Corporation's business and transactions; and (g) to exercise all powers and duties incident to the office of Treasurer; and such further powers and duties as from time to time may be prescribed in these Bylaws or by the Board of Directors or the President.

Section 3.6. Vacancies.

Any vacancy in any office or position by reason of death, resignation, removal, disqualification, disability or other cause shall be filled in the manner provided in this Article III for regular election or appointment to such office.

Section 3.7. Delegation of Duties.

The Board of Directors may in its discretion delegate for the time being the powers and duties, or any of them, of any officer to any other person whom it may select.

ARTICLE IV: MISCELLANEOUS CORPORATE TRANSACTIONS AND DOCUMENTS

Section 4.1. Execution of Notes, Checks, Contracts and Other Instruments.

All notes, bonds, drafts, acceptances, checks, endorsements (other than for deposit), guarantees and all evidence of indebtedness of the Corporation whatsoever, and all deeds, mortgages, contracts and other instruments requiring execution by the Corporation, may be signed by the President, any Vice President or the Treasurer, and authority to sign any of the foregoing, which may be general or confined to specific instances, may be conferred by the Board of Directors upon any other person or persons. Any person having authority to sign on behalf of the Corporation may delegate, from time to time, by instrument in writing, all or any part of such authority to any other person or persons if authorized to do so by the Board of Directors, which authority may be general or confined to specific instances. Facsimile signatures on checks may be used if authorized by the Board of Directors.

Section 4.2. Voting Securities Owned by Corporation.

Securities owned by the Corporation and having voting power in any

other corporation shall be voted by the President or any Vice President, unless the Board confers authority to vote with respect thereto, which may be general or confined to specific investments, upon some other person. Any person authorized to vote such securities shall have the power to appoint proxies, with general power of substitution.

ARTICLE V: GENERAL PROVISIONS

Section 5.1. Offices.

The principal business office of the Corporation shall be at 2350 Highway 101 S, Greer, SC 29651. The Corporation may also have offices at such other places within or without the Commonwealth of Pennsylvania as the business of the Corporation may require.

Section 5.2. Corporate Seal.

The Board of Directors shall prescribe the form of a suitable corporate seal, which shall contain the full name of the Corporation and the year and state of incorporation.

Section 5.3. Fiscal Year.

The fiscal year of the Corporation shall end on such day as shall be fixed by the Board of Directors.

Section 5.4. Annual Report.

The President and Treasurer shall present an annual report to the Board of Directors in accordance with Section 5553 of the Pennsylvania Nonprofit Corporation Law of 1988.

ARTICLE VI: AMENDMENTS

Section 6.1. Amendments.

These Bylaws may be amended, altered or repealed, and new Bylaws may be adopted, by the Board of Directors at any regular or special meeting, with thirty days prior written notice to all members of the Board. No provision of these Bylaws shall vest any property or contract right in any person.

Section 6.2. Effective Date and Transition.

Any amendments to these Bylaws shall take effect as of the latest date noted above.