



## MUSICAL BOX SOCIETY INTERNATIONAL ENDOWMENT FUND

### RESOLUTION AND DECLARATION OF TRUST

**WHEREAS**, The purpose of The Musical Box Society International (MBSI) Endowment Fund is to financially assist MBSI projects and/or programs which will have a lasting impact on the preservation and/or presentation of automatic musical instruments; projects and/or programs of particular historical or scholarly merit; and other projects and/or programs as approved by the MBSI Board of Trustees; and

**WHEREAS**, MBSI members, and other interested parties, can advance the goals of the MBSI Endowment Fund through bequests in Wills, Charitable Remainder and other Trusts, Charitable Gift Annuities, Assignment of Life Insurance, and transfers of property (personal property, cash, stocks, bonds, real estate); and

**WHEREAS**, It is the desire of the MBSI Board of Trustees to establish an Endowment Fund Committee (Fund Committee) to encourage, receive and administer these gifts in a manner consistent with the loyalty and devotion to the Society by the grantors and in accord with the policies of this Society; and

**WHEREAS**, It is the desire of the MBSI Board of Trustees to establish a fund to enhance the goals of The Musical Box Society International apart from the general operation of the Society; that absent of any financial crisis no portion of the income generated by such fund be used for the annual operating budget of the Society;

**NOW, THEREFORE** to accomplish this purpose, the Board of Trustees of The Musical Box Society International, in meeting on March 1, 2002, in the City of Atlanta, State of Georgia, approves and establishes on the records of the Society a separate fund to be known as THE MUSICAL BOX SOCIETY INTERNATIONAL ENDOWMENT FUND (hereafter referred to as the "ENDOWMENT FUND") and the Fund Committee is willing to hold and distribute the contributions to the Endowment Fund for the uses and purposes and upon the trusts stated in this Instrument.

### ARTICLE 1

**Section 1.1 Name of Trust.** The trust hereby created shall be known as 'The Musical Box Society International Endowment Fund' (MBSI Endowment Fund.)

**Section 1.2 Trustees.** The MBSI Board of Trustees shall act as the Trustees of the fund and declare that they have set aside and hold the trust estate.

**Section 1.3 The Trust Estate.** The term "trust estate" as used herein shall mean any and all sums of money, securities and other property of whatever character which may hereafter be given, transferred or conveyed to the Trustees for the Endowment Fund by any person, together with the income there from and the accumulations thereupon, all of which shall be kept separate and distinct from any other MBSI assets.

**Section 1.4 Purposes of the Endowment Fund.** The Endowment Fund is created and shall be administered and operated exclusively for the benefit of, and the trust estate shall be distributed by the Fund Committee, for special projects or programs approved by the MBSI Board of Trustees as provided for in this Instrument. Under normal circumstances no part of the trust estate shall be used for the operational expenses or general operation of MBSI.

**Section 1.5 Procedural Guidelines.** The MBSI Board of Trustees may from time to time, declare, define and alter Procedural Guidelines for the ordinary administration of the fund estate.

## ARTICLE 2

### ENDOWMENT FUND COMMITTEE

**Section 2.1 Number and Appointment of Committee.** The Endowment Fund Committee shall consist of five (5) Members, all of whom shall be members of The Musical Box Society International, consisting of the MBSI Treasurer, two (2) members from the MBSI Board of Trustees, and two (2) members at large, as approved by a majority vote of the MBSI Board of Trustees. The Chairperson shall be the MBSI Treasurer. If declined by the Treasurer, the MBSI President shall appoint one of the committee members as the Chairperson. Upon adoption of this Instrument, the MBSI President shall appoint and MBSI Board of Trustees shall approve two (2) MBSI Board members, and two (2) MBSI members at large to serve along with the MBSI Treasurer as the members of the Endowment Fund Committee. Members of the endowment fund committee shall serve for three (3) years and thereafter until their respective successors be appointed.

**Section 2.2 Election of Officers.** The Chairperson is the MBSI Treasurer or as appointed by the MBSI President. The Endowment Fund Committee shall select annually, at the first meeting of each year, a Recording Secretary. Such officers shall hold office for one (1) year and thereafter until their respective successors shall be elected. The duties of such officers shall be as follows:

2.2.1 The Chairperson, or a member of the Fund Committee designated by the Chairperson in his/her absence, shall preside at all regular and special meetings of the Fund Committee.

2.2.2 The Recording Secretary shall maintain complete and accurate minutes of all meetings of the Fund Committee and deliver a copy thereof to each Fund Member and to the MBSI Board of Trustees. The Recording Secretary shall maintain a permanent record of all minutes of all meetings of the Fund Committee.

2.2.3 The Chairperson shall assist in maintaining complete and accurate books of accounts for the Endowment Fund, shall deposit funds and execute all other necessary documents on behalf of the Endowment Fund. A financial report shall be presented and delivered to each Fund Member at each meeting of the Fund Committee and a copy thereof shall be delivered to the MBSI Board of Trustees. The MBSI's accountant shall conduct an informal audit or annual review of fund balances, receipts and disbursements. A copy of the review or audit shall be delivered to the MBSI Board of Trustees and a report thereof made at the annual membership meeting of the Society.

2.2.4 The Fund Committee may request that selected members of the Society serve as advisory members.

**Section 2.3 Time and Place of Meetings.** A meeting of the Fund Committee shall be held at least once a year at the time of the MBSI Annual Meeting. Written notice thereof shall be distributed to all members of the Fund Committee thirty (30) days prior to such date. Special meetings of the Fund Committee may be held upon the call of the Chairperson or any three Members, by written notice mailed to each Fund Member at least thirty (30) days prior to such date, at such place and time and for such purpose as may be specified in the call. A majority of the then Fund Members present shall constitute a quorum. The affirmative vote of at least three (3) members of the Fund Committee shall be necessary and sufficient at any such meeting to authorize or ratify any action by the Fund Committee hereunder. Written records, setting forth all actions taken at said meetings and the voting thereon, shall be kept in a permanent minute book of the Fund Committee, and shall be signed by each Fund Member present at the meeting.

**Section 2.4 Removal of Member.** By the affirmative vote of the majority of the MBSI Board of Trustees any Fund Member may be removed for any cause whatever.

**Section 2.5 Appointment of Vacancy.** In the event of a vacancy of a Fund Member, the MBSI President shall appoint a member to fill the vacancy. The appointment shall be approved by a majority of the Board of Trustees at its next meeting.

**Section 2.6 Office of Fund Committee.** The office of the Fund Committee shall be the address of the Chairperson, which shall be known as the principal office of this trust, and at it shall be kept the books and papers other than securities relating to this trust.

**Section 2.7 Member Compensation.** No Fund Member shall receive any compensation for acting as Member.

**Section 2.8 Liability of Fund Member.** No Fund Member shall be held liable or responsible with respect to any matter connected with or arising from his/her administration of the trust, provided he/she has acted in good faith and in accordance with the terms hereof.

**Section 2.9 Fund Member Bond.** No Fund Member shall be required to file any bond or enter any security for the faithful performance of his/her duties as Fund Member.

**Section 2.10 Rules of Conduct.** The Fund Committee shall have the power to make such rules for the conduct of the affairs of the Fund Committee as to them may seem appropriate, including the establishment of the time and place for each regular meeting, and to change the rules.

### ARTICLE 3

#### POWERS OF THE ENDOWMENT FUND COMMITTEE

**Section 3.1 General.** Subject to any limitations stated elsewhere in this Instrument, the Fund Committee shall have all of the powers set forth in New York Probate Code Section 178, Article 7, Sections 7.1.1 et seq., as amended from time to time, the provisions of which are hereby expressly incorporated herein by reference. The Fund Committee shall also have the powers set forth in this Article, subject to application under the "prudent man" standard of decision making authority which are in addition to all common law and statutory powers to retain and hold any sum of money, securities and other property of whatever character which may at any time be given, transferred or conveyed to them and to make sales thereof at their discretion, and to invest and reinvest the proceeds, including any income accumulated thereon, in property of any character or description as they may deem wise, without being limited to such classes of investments as may from time to time be designated as legal investments for fiduciaries but are unable to encumber any other fund besides the Endowment Fund.

**Section 3.2 Acquire Assets.** To acquire an asset or any interest therein, for cash or on credit, at public or private sale or by gift, exchange, partition, division or change of character, including any remaining undivided interest in property in which Trustee holds an undivided interest.

**Section 3.3 Dispose of Assets.** To sell or convey, at public or private sale, for cash or credit; to change; to divide; to abandon a trust asset or any interest therein.

**Section 3.4 Loan assets.** To loan an asset or any interest therein, to any local chapter or any committee of the Society, in accordance with provisions stated in Article 4.

**Section 3.5 Manage Securities.** To purchase, sell, exercise subscription or conversion rights, and warrants, in securities. To vote or give proxies, to participate in voting trusts, reorganizations, consolidations, mergers and liquidations and in connection therewith, to deposit securities with and transfer title to any depository, protective or other fiduciary as the Fund Committee may deem advisable.

**Section 3.6. Insurance.** To insure the assets of the trust against damage, loss, or liability, and Fund Committee Members against liability with respect to third persons.

**Section 3.7 Settle Claims.** To pay or contest any claim; to settle a claim by or against the trust by compromise, arbitration, or otherwise; and to release, in whole or in part, any claim belonging to the trust to the extent that the claim is reasonably deemed non-collectible; to institute, compromise and defend actions and proceedings.

**Section 3.8 Employ Agents.** To employ such custodians, professional advisors, attorneys, accountants, agents, employees or others as may be necessary in the administration of the trust or the management and protection of its assets and to pay them a reasonable compensation as expenses of administration.

**Section 3.9 Real Estate.** Should the Fund be the recipient of real property, in order to facilitate its expeditious sale, the Fund Committee has the authority to repair, remodel, alter and make additions to buildings or other trust property, to demolish any improvements; to construct or reconstruct structures, buildings or other improvements; to subdivide or develop land; to make or obtain the vacation of plats and adjust boundaries; to adjust differences in valuation on exchange or partition by giving or receiving consideration.

**Section 3.10 Execute Documents.** To execute whatever instrument may be necessary to exercise any discretion under this Article, including but not limited to, contracts, instruments creating debt or security interests and conveyances, even though such instruments contain covenants and warranties binding the trust property and excluding personal liability.

**Section 3.11 Property Outside New York.** To acquire or retain interests in real and tangible personal property situated outside of the State of New York.

**Section 3.12 Trust Expenses.** All assessments, fees, charges, and other expenses incurred by the Fund Committee in the administration or protection of the trusts created by this Instrument shall be a charge on the trust estate and shall be paid by the Fund Committee.

**Section 3.13 Self-dealing.** No Fund Member shall engage in any financial transactions with the trust estate in which the Fund Member has a direct or indirect financial interest nor shall any Fund Member engage in any conduct in which his/her personal interests directly or indirectly conflicts with the interest of the Endowment Fund.

**Section 3.14 Determination of Principal or Income.** The Fund Committee shall determine what is principal and income based upon acceptable accounting principles.

## ARTICLE 4

### DISTRIBUTION OF INCOME

**Section 4.1 Income Distribution.** Upon approval from the MBSI Board of Trustees, the Fund Committee may distribute funds from the trust estate in the form of grants or loans, to MBSI Chapters in good standing, for projects and/or programs which will have a lasting impact on the preservation and/or presentation of automatic musical instruments; for projects and/or programs of particular historical or scholarly merit; and for other projects and/or programs as approved by the MBSI Board of Trustees.

**Section 4.2 Distribution Limitations.** In no event and under no circumstances shall more than sixty seven (67) percent of the accumulated realized income net of any expenses on the Endowment Fund principal be distributed, directly or indirectly, for projects or programs. With the exception of a financial emergency as declared by a vote of 2/3 of both the MBSI Board of Trustees and MBSI Membership, no part of the trust principal shall be spent or loaned, directly or indirectly, for any projects or programs. Loans of available accumulated income must be secured. A promissory note shall be drafted, establishing a reasonable interest rate and payment schedule, which shall be signed by the borrower and Fund Committee Chairperson.

ARTICLE S

REVOCATION AND AMENDMENT

Section 5.1 Revocation and Amendment. This instrument supersedes all prior written understandings and agreements relating hereto. By written instrument delivered to Fund Members, this trust may be revoked or amended upon a vote of 2/3 of the MBSI Board of Trustees. Amendments may be canceled or amended in like manner.

Section 5.2 Recommendation by Fund Committee. At such time as the principal of the trust estate attains a fair market value of Two Hundred Fifty Thousand Dollars (\$250,000) and at any time thereafter deemed appropriate by the Fund Committee, The Fund Committee shall make a written recommendation to the MBSI Board of Trustees, together with all necessary proposed amendments to this Instrument, regarding the transfer of the trust estate to a private or corporate trustee, such as a bank trust department or trust company, for professional management of the trust estate.

Section 5.3 Disbition on Termination of Trust Upon the revocation or dissolution of this trust, the remaining trust assets after payment, or provision for payment, of all debts and liabilities of this trust shall be distributed to the Smithsonian Institution if at the time of distribution it shall be tax exempt, otherwise to one or more nonprofit funds, foundations or corporations, selected by a majority vote of the MBSI Board of Trustees, which is organized and operated exclusively for charitable purposes and which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

ARTICLE S

CONSTRUCTION OF TRUST

Section 6.1 Applicable Law. The validity of this trust and the construction of its beneficial provisions shall be governed by the laws of the State of New York in force from time to time. Notwithstanding the foregoing, the validity and construction of this Instrument in relation to any real property located in a jurisdiction outside the State of New York shall be determined under the laws of such jurisdiction.

Section 6.2 Severability Clause. If any provision of this Instrument is unenforceable, the remaining provisions shall nevertheless be carried into effect.

Section 6.3 Determination of Illegality. To the extent that any provision of this Trust is determined to be illegal or otherwise unenforceable under the provisions of Section 6.2 and there is application of the Severability Clause preserving the remaining provisions of the Trust as valid. and to the extent otherwise authorized under this Trust, such provisions which are determined to be illegal or otherwise unenforceable may be subject to modification directed by the Board of Trustees who shall be authorized to amend the Trust if possible to restate or redraft such provisions as have been determined to be illegal or unenforceable in such a manner as shall put them into legal force and effect, otherwise the provisions of Section 6.2 shall be applicable.

IN WITNESS WHEREOF, The Board of Trustees of The Musical Box Society International has caused these presents to be executed by its duly authorized President and Recording Secretary, and its corporate seal to be hereunto affixed, Myra Karp, Carla Weimer, have hereunto set their hands and seals this 1st day of March 2002.

MUSICAL BOX SOCIETY INTERNATIONAL

By: [Signature]  
Myra Karp, President

Attest: [Signature]  
Carla Weimer, Recording Secretary

